

**Version No. 073**  
**Prevention of Cruelty to Animals Act 1986**  
**No. 46 of 1986**

Version incorporating amendments as at 20 March 2008

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**Version 073**  
**Prevention of Cruelty to Animals Act 1986**  
**No. 46 of 1986**

Version incorporating amendments as at 20 March 2008

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1 Purpose**

The purpose of this Act is to—

- (a) prevent cruelty to animals; and
- (b) to encourage the considerate treatment of animals; and
- (c) to improve the level of community awareness about the prevention of cruelty to animals.

**2 Commencement**

This Act comes into operation on a day or days to be proclaimed.

**3 Definitions**

(1) In this Act—

S. 3  
amended by  
No. 77/1995  
s. 4(1)(a).

\* \* \* \* \*

S. 3(1) def. of  
*animal*  
substituted by  
No. 77/1995  
s. 4(1)(b),  
repealed by  
No. 65/2007  
s. 77(1)(b).

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S. 3(1) def. of  
*animal ethics committee*  
inserted by  
No. 103/2003  
s. 31.

*animal ethics committee* means a committee, the principal function of which is to determine the ethical practices that are to apply to the carrying out of scientific procedures;

S. 3(1) def. of  
*Code of Practice*  
amended by  
No. 11/2000  
s. 4(1).

*Code of Practice* means a Code of Practice made and published and as varied from time to time under section 7;

S. 3(1) def. of  
*Chief General Manager*  
repealed by  
No. 77/1995  
s. 4(1)(c).

\* \* \* \* \*

S. 3(1) def. of  
*Department*  
inserted by  
No. 77/1995  
s. 4(1)(e),  
amended by  
Nos 46/1998  
s. 7(Sch. 1),  
56/2003  
s. 11(Sch.  
item 17.1).

*Department* means the Department of Primary Industries;

S. 3(1) def. of  
*Department Head*  
inserted by  
No. 76/1998  
s. 27(a)(ii),  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 160.1).

*Department Head* means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

S. 3(1) def.  
of *dock*  
inserted by  
No. 65/2007  
s. 77(1)(a).

*dock*, in relation to the tail of a dog or a horse, means the amputation, removal or shortening of the tail of the animal, other than the shortening of the tail hairs of the animal;

*farm animal* means—

- (a) if kept for or used in connexion with primary production—cattle, sheep, pigs, poultry, goats and deer; and
- (b) horses other than horses kept for or used in connexion with sporting events, equestrian competitions, pony clubs, riding schools, circuses or rodeos;

*general inspector* means a person who is a general inspector under section 18;

S. 3(1) def. of *general inspector* inserted by No. 65/2007 s. 77(1)(a).

\* \* \* \* \*

S. 3(1) def. of *municipality* repealed by No. 77/1995 s. 4(1)(c).

*person in charge of* in relation to an animal or thing, includes—

- (a) a person who has the animal or thing in the person's possession or custody, or under the person's care, control or supervision; and
- (b) any employee or agent of the owner of the animal or thing if a person referred to in paragraph (a) is bound to comply with the directions of that employee or agent in respect of the animal or thing;

S. 3(1) def. of *person in charge of* inserted by No. 76/2005 s. 26.

*POCTA inspector* means a general inspector or a specialist inspector;

S. 3(1) def. of *POCTA inspector* inserted by No. 65/2007 s. 77(1)(a).

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S. 3(1) def. of  
*premises*  
amended by  
No. 77/1995  
s. 4(1)(d).

*premises* includes—

- (a) a building or part of a building; and
- (b) a tent, stall or other structure, whether permanent or temporary; and
- (c) land, whether or not appurtenant to a building; and
- (ca) a vehicle, vessel or aircraft; and
- (d) any other place;

*prescribed* means prescribed by the regulations;

S. 3(1) def. of  
*prohibited*  
*procedure*  
inserted by  
No. 65/2007  
s. 77(1)(a),  
amended by  
No. 65/2007  
s. 77(2).

*prohibited procedure* means any of the following—

- (a) the procedure of cropping the ears of a dog, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the dog; or
- (b) the procedure of debarking a dog, unless the procedure is done by a veterinary practitioner and in accordance with the Code of Practice as to the debarking of dogs; or
- (c) the procedure of docking the tail of a dog or horse, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the dog or horse; or
- (d) the procedure of grinding, clipping or trimming the teeth of a sheep using an electrical or motorised device, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the sheep; or

- 
- (e) the procedure of removing the claws of a cat, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the cat; or
  - (f) the procedure of removing the venom sacs of a reptile, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the reptile; or;
  - (g) the procedure of thermocautery or firing of a horse;

**regulations** means regulations made under this Act;

**scientific premises** means a premises ordinarily used for scientific research, teaching or testing;

S. 3(1) def. of *scientific premises* inserted by No. 103/2003 s. 31.

**scientific procedure** means any procedure, test, experiment, inquiry, investigation or study which is carried out on or in connection with an animal in the course of which—

S. 3(1) def. of *scientific procedure* inserted by No. 103/2003 s. 31.

- (a) an animal is subjected to—
  - (i) surgical, medical, psychological, biological, chemical or physical treatment; or
  - (ii) conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding to which an animal of that species is not accustomed; or
  - (iii) abnormal dietary conditions; or
  - (iv) electric shock or radiation treatment; or

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(b) any tissue, material or substance is extracted or derived from the body of an animal—

and which is for—

(c) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, dental, veterinary, agricultural, behavioural or biological science or in any other field of science; or

(d) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, dental, veterinary, agricultural, behavioural or biological science or in any other field of science; or

(e) the purpose of developing or testing the use, hazards, safety or efficiency of vaccines, substances, drugs, materials or appliances intended for use in, on or in connexion with human beings or animals; or

(f) any other purpose prescribed for the purposes of this paragraph—

but does not include—

(g) the treatment of an animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

(h) the conduct of animal husbandry carried out in accordance with a Code of Practice; or

- (i) the collection, taking, banding and marking of wildlife within the meaning of and in accordance with the **Wildlife Act 1975**; or
- (j) any or any type of procedure, test, experiment, inquiry, investigation or study prescribed for the purposes of this paragraph;

*scientific procedures field work licence* means a licence issued under section 32A;

S. 3(1) def. of *scientific procedures field work licence* inserted by No. 103/2003 s. 31.

*scientific procedures premises licence* means a licence issued under section 29;

S. 3(1) def. of *scientific procedures premises licence* inserted by No. 103/2003 s. 31.

\* \* \* \* \*

S. 3(1) def. of *Secretary* inserted by No. 77/1995 s. 4(1)(e), repealed by No. 76/1998 s. 27(a)(i).

*specialist inspector* means a person appointed as a specialist inspector under section 18A;

S. 3(1) def. of *specialist inspector* inserted by No. 65/2007 s. 77(1)(a).

*specified animals breeding licence* means a licence issued under section 32E;

S. 3(1) def. of *specified animals breeding licence* inserted by No. 103/2003 s. 31.

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S. 3(1) def. of *veterinary practitioner* inserted by No. 58/1997 s. 96(Sch. item 7.1).

*veterinary practitioner* means a veterinary practitioner registered under the **Veterinary Practice Act 1997**;

S. 3(1) def. of *veterinary surgeon* repealed by No. 58/1997 s. 96(Sch. item 7.1).

\* \* \* \* \*

S. 3(2) inserted by No. 77/1995 s. 4(2), amended by Nos 46/1998 s. 7(Sch. 1), 56/2003 s. 11(Sch. item 17.2), 108/2004 s. 117(1) (Sch. 3 item 160.2).

(2) If under the **Public Administration Act 2004** the name of the Department of Primary Industries is changed, a reference to that Department in the definition of *Department* in subsection (1) must, from the date when the name is changed, be taken to be a reference to the Department by its new name.

S. 3(3) inserted by No. 65/2007 s. 77(4).

- (3) In this Act, other than Part 3, *animal* means—
- (a) a live member of a vertebrate species including any—
    - (i) fish or amphibian; or
    - (ii) reptile, bird or mammal, other than any human being or any reptile, bird or other mammal that is below the normal mid-point of gestation or incubation for the particular class of reptile, bird or mammal; or
  - (b) a live adult decapod crustacean, that is—
    - (i) a lobster; or
    - (ii) a crab; or
    - (iii) a crayfish.

#### 4 Binding of Crown

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

\* \* \* \* \*

S. 5  
repealed by  
No. 65/2007  
s. 78(1).

#### 6 Application of Act

(1) This Act does not apply to—

S. 6  
amended by  
No. 77/1995  
s. 5(1).

- (a) the slaughter of animals in accordance with the **Meat Industry Act 1993** or any Commonwealth Act<sup>1</sup>; or
- (b) except to the extent that it is necessary to rely upon a Code of Practice as a defence to an offence under this Act the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals (other than a farm animal or class of farm animals) which is carried out in accordance with a Code of Practice; or
- (c) any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice; or
- (d) anything done in accordance with the **Catchment and Land Protection Act 1994**;  
or

S. 6(1)(a)  
amended by  
No. 77/1995  
s. 5(2)(3).

S. 6(1)(d)  
amended by  
Nos 52/1994  
s. 97(Sch. 3  
item 23.1),  
69/2004  
s. 48(1).

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S. 6(1)(e)  
amended by  
Nos 77/1995  
s. 5(4),  
58/1997  
s. 96(Sch.  
item 7.2).

(e) the treatment of any animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

S. 6(1)(f)  
inserted by  
No. 77/1995  
s. 5(4),  
amended by  
No. 77/1995  
s. 5(5).

(f) the slaughter of a farm animal on a farm if—  
(i) it is slaughtered for consumption on that farm; and  
(ii) it is slaughtered in a humane manner; and  
(iii) it is not slaughtered for sale; and  
(iv) it is not slaughtered for use in the preparation of food for sale; and  
(v) it is not removed from that farm; or

S. 6(1)(g)  
inserted by  
No. 77/1995  
s. 5(5),  
substituted by  
No. 26/1998  
s. 8.

(g) any fishing activities authorised by and conducted in accordance with the **Fisheries Act 1995**<sup>2</sup>.

S. 6(1)(h)  
inserted by  
No. 77/1995  
s. 5(5),  
repealed by  
No. 26/1998  
s. 8.<sup>3</sup>

\* \* \* \* \*

S. 6(1A)  
inserted by  
No. 103/2003  
s. 32,  
amended by  
No. 65/2007  
s. 78(2).

(1A) For the purpose of determining whether or not subsection (1) applies to a particular case, a specialist inspector may exercise a power set out in Part 2A.

S. 6(1B)  
inserted by  
No. 69/2004  
s. 48(2).

(1B) This Act, except Part 3, does not apply to anything done in accordance with the **Wildlife Act 1975**.

- (2) In subsection 6(1)(f) *farm* has the same meaning as in the **Meat Industry Act 1993**.

S. 6(2)  
inserted by  
No. 77/1995  
s. 5(7).

## 7 Codes of Practice

- (1) The Governor in Council, on the recommendation of the Minister, may make, vary or revoke Codes of Practice—

S. 7(1)  
amended by  
No. 11/2000  
s. 4(2).

- (a) specifying procedures for the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals; or
- (b) about the premises, facilities, equipment or conditions at any premises to which licences granted under Part 3 apply; or
- (c) the constitution, procedures and processes of animal ethics committees.

S. 7(1)(b)  
substituted by  
No. 103/2003  
s. 33.

S. 7(1)(c)  
inserted by  
No. 103/2003  
s. 33.

- (2) A Code of Practice may apply, adopt or incorporate (with or without modification) any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as issued, formulated, prescribed, adopted or published at the time the Code is made or at any time before then.
- (3) Subject to subsection (4), a Code of Practice or a variation or revocation of a Code of Practice must as soon as possible after it has been made be published in the Government Gazette.

S. 7(3)  
amended by  
No. 11/2000  
s. 4(3).

- 
- (4) Before—
- (a) any Code of Practice; or
  - (b) any variation or revocation of a Code of Practice—
- which deals with any animal is published in the Government Gazette—
- (c) the Minister must ensure that a copy of that Code, variation or revocation has lain on the table of both the Legislative Assembly and the Legislative Council for fourteen sitting days, during which time the Code may be disallowed by resolution of the Legislative Assembly or of the Legislative Council; and
  - (d) the Code, variation or revocation must not have been so disallowed.
- (5) A Code of Practice or a variation or revocation of a Code of Practice takes effect on the date of its publication in the Government Gazette or such later date as is specified in the Code, variation or revocation.
- (6) If any Code of Practice applies, adopts or incorporates matter under subsection (2) or a variation of a Code of Practice varies a Code so as to apply, adopt or incorporate such matter in the Code—
- (a) that Code or variation must specify a place at which copies of that matter may be obtained; and
  - (b) the Minister must lay or cause to be laid a copy of that matter before the Legislative Council and the Legislative Assembly as soon as is practicable after the Code or variation is published in the Government Gazette.
-

**PART 2—PROTECTION OF ANIMALS**

**Division 1—Cruelty**

**8 Definitions**

(1) In this Part—

*baiting* means encouraging an animal to fight another animal;

\* \* \* \* \*

S. 8 amended by No. 103/2003 s. 34 (ILA s. 39B(1)).

S. 8(1) def. of *inspector* repealed by No. 65/2007 s. 79(2).

\* \* \* \* \*

S. 8(1) def. of *permit* amended by No. 69/2004 s. 49(1), repealed by No. 65/2007 s. 79(2).

*rodeo* means an event which includes any exhibition of or competition in buck-jumping, rough-riding, animal dogging, roping or tying;

*rodeo school* means any premises used for the training or schooling of persons in buck-jumping, rough-riding, animal dogging, roping or tying;

\* \* \* \* \*

S. 8(1) def. of *specialist inspector* inserted by No. 77/1995 s. 6, repealed by No. 65/2007 s. 79(2).

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*trap-shooting* means shooting at a bird—

- (a) which is released or projected from a box, trap, cage or other contrivance used for holding the bird; or
- (b) which is released or projected after being held in captivity whether held by mechanical means or by hand.

S. 8(2)  
inserted by  
No. 103/2003  
s. 34,  
repealed by  
No. 65/2007  
s. 79(3).

\* \* \* \* \*

S. 9  
amended by  
No. 77/1995  
s. 7(1)(a)(f).

## 9 Cruelty

S. 9(1)  
amended by  
No. 65/2007  
s. 80(b)(c).

(1) A person who—

S. 9(1)(b)  
amended by  
No. 77/1995  
s. 7(1)(b),  
substituted by  
No. 76/2005  
s. 27(a).

- (a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, worries, torments or terrifies an animal; or
- (b) loads, crowds or confines an animal where the loading, crowding or confinement of the animal causes, or is likely to cause, unreasonable pain or suffering to the animal; or

S. 9(1)(c)  
substituted by  
No. 76/2005  
s. 27(b).

- (c) does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal; or

S. 9(1)(d)  
amended by  
No. 77/1995  
s. 7(1)(c).

- (d) drives, conveys, carries or packs an animal in a manner or position or in circumstances which subjects or subject, or is likely to subject, it to unnecessary pain or suffering; or

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- 
- (e) works, rides, drives or uses an animal when it is unfit for the purpose with the result that unreasonable pain or suffering is caused to an animal; or
- (f) is the owner or the person in charge of an animal which is confined or otherwise unable to provide for itself and fails to provide the animal with proper and sufficient food, drink or shelter; or
- (g) sells, offers for sale, purchases, drives or conveys a calf, which appears to be unfit because of weakness, to be sold or purchased or to be driven or conveyed to its intended destination; or
- (h) abandons an animal of a species usually kept in a state of confinement or for a domestic purpose; or
- (i) is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal; or
- (j) other than in accordance with the **Catchment and Land Protection Act 1994**, the **Wildlife Act 1975** or the **Drugs, Poisons and Controlled Substances Act 1981**, intentionally administers to an animal or lays a bait for the animal containing—
- (i) a poison; or
- (ii) any other substance which, when administered to that type of animal, has a harmful effect on the animal; or
- (k) uses spurs with sharpened rowels on an animal; or
- S. 9(1)(e) substituted by No. 76/2005 s. 27(c).
- S. 9(1)(f) amended by No. 77/1995 s. 7(1)(d), substituted by No. 76/2005 s. 27(d).
- S. 9(1)(i) amended by No. 77/1995 s. 7(1)(e), substituted by No. 76/2005 s. 27(e).
- S. 9(1)(j) amended by No. 52/1994 s. 97(Sch. 3 item 23.2).
-

Prevention of Cruelty to Animals Act 1986  
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**s. 9**

**S. 9(1)(l)**  
amended by  
Nos 68/1987  
s. 26(a),  
74/2000  
s. 3(Sch. 1  
item 101),  
substituted by  
No. 65/2007  
s. 80(a).

(l) carries out a prohibited procedure on an animal—

**S. 9(1)(la)**  
inserted by  
No. 68/1987  
s. 26(b),  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 54),  
repealed by  
No. 65/2007  
s. 80(a).

\* \* \* \* \*

**S. 9(1)(m)**  
amended by  
No. 74/2000  
s. 3(Sch. 1  
item 101),  
repealed by  
No. 65/2007  
s. 80(a).

\* \* \* \* \*

commits an act of cruelty upon that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months or, in the case of a body corporate, 600 penalty units.

**S. 9(2)**  
inserted by  
No. 77/1995  
s. 7(2).

(2) It is a defence to a charge under subsection (1) against an owner of an animal to prove that, at the time of the alleged offence, the owner had entered into an agreement with another person by which the other person agreed to care for the animal.

## 10 Aggravated cruelty

- (1) A person who commits an act of cruelty upon any animal which results in the death or serious disablement of the animal commits an act of aggravated cruelty upon that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty units.
- (2) A person who is guilty of an offence under subsection (1) may be liable to the penalty for that offence in addition to or instead of any other penalty to which the person is liable under section 9.

S. 10(1)  
amended by  
Nos 77/1995  
s. 8, 65/2007  
s. 81.

## 11 Defence to cruelty or aggravated cruelty

In any proceedings against a person in relation to an act of cruelty under section 9, or an act of aggravated cruelty under section 10, it is a defence if the person—

- (a) acted reasonably; or
- (b) reasonably omitted to do an act—

in defending himself or herself or any other person against an animal or against any threat of attack by an animal.

## 11A Further prohibited procedure offences

- (1) The owner or person in charge of an animal must not allow a prohibited procedure to be carried out on the animal.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 11A  
inserted by  
No. 65/2007  
s. 82.

(2) The owner or person in charge of an animal on which a prohibited procedure has been carried out must not—

- (a) show or exhibit the animal; or
- (b) allow another person to show or exhibit the animal—

unless the prohibited procedure was carried out—

- (c) before the commencement of section 80 of the **Animals Legislation Amendment (Animal Care) Act 2007**; or
- (d) in a jurisdiction other than Victoria, in accordance with the law of that jurisdiction, and the animal was not, at any time on or before the procedure was carried out, resident in Victoria.

Penalty: 20 penalty units.

(3) In this section—

*exhibit*, in relation to an animal, means the general or public display of the animal (whether or not for sale purposes);

*show*, in relation to an animal, means causing the animal to participate in any competition, performance or entertainment.

## 12 Serious offences

(1) If a person has been convicted of one or more offences under this Act and a court considers that the offence or offences is or are of a serious nature, the court may, in addition to or instead of any other penalty, order—

- (a) that the person be disqualified for the period (not exceeding 10 years) specified in the order, from being a person in charge of an animal of a kind or class specified in the order; or

S. 12(1)  
substituted by  
No. 65/2007  
s. 83(1).

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- (b) that the conditions, specified in the order, apply for the period specified in the order to the person whenever the person is a person in charge of an animal.
- (1A) If a court making an order under subsection (1) is satisfied by the evidence, on oath or affidavit, of a POCTA inspector that there are reasonable grounds to believe that the person who has been convicted of the offence or offences is holding an animal on premises, including residential premises, in contravention of this section, the court may, by order, authorise the inspector to enter the premises and search for and seize the animal and dispose of the animal in accordance with Division 6 of Part 2A. **S. 12(1A) inserted by No. 65/2007 s. 83(1).**
- (1B) Part 2A applies to an order under subsection (1A) as if it were a search warrant for the animal issued under section 24G. **S. 12(1B) inserted by No. 65/2007 s. 83(1).**
- (2) A court must not make an order under subsection (1) in relation to a person who is not the owner of the animal or animals concerned in proceedings for the offence or offences referred to in that subsection if the person proves—
- (a) that the offence or one of the offences was committed both on the instructions and in the presence or under the supervision of—
- (i) the owner or the person in charge of the animal or animals; or **S. 12(2)(a)(i) amended by No. 76/2005 s. 28.**
- (ii) a person who at the time the offence was committed was the employer of or had engaged the person who committed the offence to do work which the person was then doing; and
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- (b) if the offence was a continuing one, that the person had no reasonable opportunity in the circumstances of preventing the offence from continuing.
- (3) A court which has made an order under subsection (1) may suspend the order—
- (a) for any period which the court considers necessary to make arrangements for the custody of any animal of a kind or class specified in the order; or
- (b) pending the determination of an appeal against the order.
- (4) A person in relation to whom an order under subsection (1) is made may, after 12 months after the date of the order, apply to the court which made the order for the variation, suspension or cancellation of the order.
- (5) A court to which application is made under subsection (4) may, having regard to the applicant's character, the applicant's conduct since the date of the order, the nature of the offence or offences referred to in subsection (1) and any other relevant circumstances—
- (a) direct that from a specified date—
- (i) the order be varied, suspended or cancelled as specified in the direction; or
- (ii) the order be varied to apply only to animals of a specified kind or class; or
- (b) refuse the application.
- (6) If a court under subsection (5)(a)(ii) or (b) directs that an order be varied or refuses an application, the applicant must not make another application until 12 months after the direction or refusal.
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- (6A) If a person is disqualified under subsection (1)(a) and, during the period of disqualification, a court makes a further order under subsection (1)(a) in respect of the person, the further order takes effect immediately after the end of the period of disqualification fixed by the initial order.
- (7) A person who is subject to an order under subsection (1) must comply with the order.
- Penalty: 240 penalty units or imprisonment for 2 years.
- S. 12(6A) inserted by No. 77/1995 s. 9(1).
- S. 12(7) amended by No. 77/1995 s. 9(2)(a)(b), substituted by No. 65/2007 s. 83(2).

## 12A Registration of interstate orders

S. 12A inserted by No. 50/2005 s. 3.

- (1) In this section—

*corresponding law* means a provision of a law of another State or Territory declared by an Order of the Governor in Council under section 12B to be a corresponding law for the purposes of this section;

*interstate minister* means the minister responsible for administering a corresponding law;

*interstate order* means a court order made under a corresponding law;

*register* means a register kept for the purposes of this section.

- (2) On the written request of an interstate minister, the Minister may register an interstate order.
- (3) The Minister must not register an interstate order under this section unless the interstate minister has provided the Minister with a copy, or an extract of the operative provisions, of the order.
- (4) On registering an interstate order under this section, the Minister must ensure that any details specified in the regulations relating to the registration of interstate orders under this section

are recorded on the copy or extract of the order and in the register (as the case requires).

- (5) As soon as possible after registering an interstate order, the Minister must ensure that a notice is served on the person who is the subject of the order either personally or by registered post at the last known address of that person.
- (6) The notice must inform the person—
  - (a) that the relevant interstate order has been registered under this section; and
  - (b) that the registration of the order does not take effect until 14 days after the notice is served on the person; and
  - (c) that from the time the registration takes effect, a contravention of the order in Victoria is an offence under subsection (8).
- (7) The registration of an interstate order registered under this section takes effect 14 days after notice is served in accordance with subsection (5) on the person who is the subject of the order.
- (8) A person who is the subject of an interstate order, that is registered under this section, must comply with the order.  
  
Penalty: 240 penalty units or imprisonment for 2 years.
- (9) Subsection (8) applies even if the order is varied after it is registered.
- (10) However, if an interstate order is varied after it is registered to create a new obligation on the person to whom the order relates, proceedings against the person in respect of a contravention of that obligation must not be started unless the person had notice of the obligation before the contravention occurred.

S. 12A(8)  
substituted by  
No. 65/2007  
s. 84.

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- (11) In proceedings for an alleged offence against subsection (8)—
- (a) production of a certificate signed by the Minister stating that an interstate order was registered on a specified date is prima facie evidence of the registration under this section of the order; and
  - (b) production of a certificate signed by the interstate minister setting out the terms of the interstate order at a particular date is prima facie evidence of the terms of the order on that date.
- (12) All courts and tribunals, and any person acting judicially, must take judicial notice of—
- (a) the signature of the person who is or was the Minister, and of the fact that the person is or was the Minister; and
  - (b) the signature of the person who is or was the interstate minister, and of the fact that the person is or was the interstate minister.

**12B Governor in Council may declare corresponding law**

S. 12B  
inserted by  
No. 50/2005  
s. 3.

- (1) The Governor in Council may, by Order published in the Government Gazette, declare a provision of a law of another State or a Territory to be a corresponding law for the purposes of section 12A if that provision substantially corresponds with section 12.
- (2) An Order under subsection (1) has effect as from the date the Order is published or from any later date specified in the Order.

### 13 Baiting and luring

S. 13(1)  
amended by  
Nos 77/1995  
s. 10(1),  
65/2007  
s. 85(1).

- (1) A person who—
- (a) keeps, uses or assists in the management of premises for the purpose of causing an animal to fight, or for the baiting or maltreating of an animal; or
  - (b) causes or procures the release of an animal in circumstances where it will or is likely to be pursued, injured or killed by a dog; or
  - (c) causes, procures or permits an animal in captivity to be injured or killed by a dog; or
  - (d) uses an animal as a lure or kill for the purpose of blooding greyhounds or in connexion with the training and racing of any coursing dog; or
  - (e) keeps or has the custody, care or control of an animal for use as a lure or kill for the purpose of blooding greyhounds or in connexion with the training and racing of any coursing dog—

is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty units.

S. 13(2)  
amended by  
Nos 77/1995  
s. 10(2),  
74/2000  
s. 3(Sch. 1  
item 101),  
103/2003 s. 35.

- (2) In any prosecution under subsection (1), evidence in writing by a veterinary practitioner who is employed, or who practises on his or her own behalf, as a veterinary pathologist that an animal was alive at the time of its attack by a dog is prima facie evidence that the animal was alive at the time of that attack.

- (3) In any prosecution under subsection (1)(d)—
- (a) evidence that the defendant had the custody, care or control of an animal which appeared to have been used as a lure or kill in the manner referred to in subsection (1)(d) is prima facie evidence that the defendant used the animal as a lure or kill in that manner; and
  - (b) it is a defence if the person charged proves that—
    - (i) the animal was used as a lure or kill in the manner referred to in subsection (1)(d) without that person's knowledge or consent; or
    - (ii) that person took all reasonable steps to prevent the animal being used as a lure or kill in the manner referred to in subsection (1)(d).
- (4) A person must not attend an event at which an animal is encouraged to fight another animal.

Penalty: 120 penalty units.

S. 13(4)  
inserted by  
No. 83/2001  
s. 3,  
amended by  
No. 65/2007  
s. 85(2).

## 14 Trap-shooting

A person who—

- (a) engages in; or
- (b) keeps or uses any premises for the purposes of—

the trap-shooting of birds is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty unit.

S. 14  
amended by  
Nos 77/1995  
s. 11, 65/2007  
s. 86.

## 15 Leghold traps

(1) In this section—

(a) **large leghold trap** means a spring-operated steel-jawed leghold trap of a kind prescribed as a large leghold trap; and

(b) **small leghold trap** means a spring-operated steel-jawed leghold trap of a kind prescribed as a small leghold trap; and

(c) **Crown land** does not include land that is subject to a lease or licence of agricultural or grazing lands granted within the meaning of and under Division 4 of Part I of the **Land Act 1958**; and

(d) **Urban area** means an area of land that is predominantly—

(i) sub-divided into allotments that, in the case of land used or to be used for residential purposes, are not larger than 0.4 hectares; and

(ii) able to be used or developed under a planning scheme or interim development order for residential, industrial or commercial purposes; and

(iii) provided with constructed streets and public utility services.

(2) A person—

(a) who sets or uses a large leghold trap; or

(b) who is in possession of a large leghold trap for or in connexion with the purpose of trapping an animal—

except in the Counties of Tambo, Croajingalong, Delatite, Tanjil, Anglesey, Benambra, Dargo, Wonnangatta, Bogong, Lowan or Weeah or in the Parishes of Ellinging, Noojee, Noojee East,

S. 15(1)(c)  
amended by  
No. 35/1988  
s. 24(1).

S. 15(1)(d)  
inserted by  
No. 35/1988  
s. 24(1).

S. 15(2)  
amended by  
No. 77/1995  
s. 12(1).

Toorongo, Fumina North, Fumina, Neerim East, Neerim, Yarragon, Nayook, Nayook West, or Jindivick in the County of Buln Buln, is guilty of an offence.

Penalty: 120 penalty units or imprisonment for 12 months.

- (3) A person must not—
- (a) set, use or possess a small leghold trap on Crown land; or
  - (b) set or use a small leghold trap on land in an urban area that is not predominantly used for agriculture; or
  - (c) on any other land set or use a small leghold trap except—
    - (i) in accordance with a Code of Practice; and
    - (ii) with the consent of the owner or occupier of the land (if the person is not himself or herself the owner or occupier).

S. 15(3) substituted by No. 35/1988 s. 24(2), amended by No. 77/1995 s. 12(2).

Penalty: 120 penalty units or imprisonment for 12 months.

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S. 15(4) repealed by No. 35/1988 s. 24(2).

### 15A Dogs on moving vehicles

- (1) In this section—

*highway* has the same meaning as in the **Road Safety Act 1986**;

*motor vehicle* has the same meaning as in the **Road Safety Act 1986**;

S. 15A inserted by No. 77/1995 s. 13.

S. 15A(1) def. of *motor vehicle* inserted by No. 11/2000 s. 5(1).

s. 15A

***trailer*** has the same meaning as in the **Road Safety Act 1986**;

***tray*** means a part of a motor vehicle behind the cabin that is an open compartment and is principally constructed to carry a load.

S. 15A(1)  
def. of  
*tray*  
inserted by  
No. 11/2000  
s. 5(1).

(2) Subject to subsection (3), a person must not drive on a highway—

S. 15A(2)  
amended by  
Nos 11/2000  
s. 5(2)(b),  
65/2007 s. 88.

(a) a motor vehicle with a tray; or

S. 15A(2)(a)  
substituted by  
No. 11/2000  
s. 5(2)(a).

(b) a motor vehicle to which a trailer is attached—

if a dog is in or on the tray or trailer (as the case requires) and the dog is not secured in such a way as to prevent it from—

(c) falling off or out of, or from, or moving off, the tray or trailer (as the case requires); or

S. 15A(2)(c)  
substituted by  
No. 11/2000  
s. 5(2)(c).

(d) being injured from the movement of the motor vehicle or trailer.

S. 15A(2)(d)  
amended by  
No. 11/2000  
s. 5(2)(d).

Penalty: 10 penalty units.

(3) Subsection (2) does not apply to a dog which is being used to assist in the movement of livestock.

**15B Offence under section 15A to be operator onus offence**

S. 15B  
inserted by  
No. 65/2007  
s. 89.

An offence under section 15A is an operator onus offence for the purposes of Part 6AA of the **Road Safety Act 1986**.

**15C Breeding of animals with heritable defects**

S. 15C  
inserted by  
No. 65/2007  
s. 89.

- (1) A person must not, intentionally or recklessly, allow an animal with a heritable defect to breed.

Penalty: 60 penalty units, in the case of a natural person.

300 penalty units, in the case of a body corporate.

- (2) A person must not sell or dispose of an animal with a heritable defect, if the person knows or is reckless as to whether the animal has a heritable defect, unless the person who sells or disposes of the animal advises the person to whom the animal is sold or disposed of (before the sale or disposal) that the animal has the heritable defect.

Penalty: 60 penalty units, in the case of a natural person.

300 penalty units, in the case of a body corporate.

- (3) In this section—

*heritable defect*, in relation to a species of animal set out in Column 1 of the Table in the Schedule, means a heritable defect that is known to cause the disease set out opposite the species of animal in Column 2 of the Table in the Schedule.

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**Division 2—Rodeos**

**16 Permits to operate rodeos or rodeo schools**

S. 16  
(Heading)  
inserted by  
No. 69/2004  
s. 49(2).

S. 16(1)  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b).

- (1) The Department Head may, on receipt of an application in the prescribed form for that type of permit accompanied by the prescribed fee for that type of permit, issue a permit to a person authorizing the person either—

S. 16(1)(a)  
amended by  
No. 69/2004  
s. 49(3)(a).

- (a) to operate a rodeo; or

- (b) to operate a rodeo school.

S. 16(2)  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b),  
substituted by  
No. 76/2005  
s. 29(1).

- (2) A permit issued by the Department Head—
- (a) must be in the prescribed form for that type of permit; and
- (b) is subject to the prescribed conditions for that type of permit; and
- (c) is subject to any conditions imposed by the Department Head in the permit; and
- (d) in the case of a permit to operate a rodeo school, remains in force for a period specified in the permit of not more than 12 months.

S. 16(3)  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b).

- (3) The Department Head may refuse to issue a permit if—

S. 16(3)(aa)  
inserted by  
No. 69/2004  
s. 49(3)(b).

- (aa) he or she is not satisfied that the applicant is the person who intends to supply the stock to be used at the rodeo or the rodeo school (as the case may be); or

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**s. 16**

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- (ab) the application is not lodged at least 28 days before the day that the rodeo or rodeo school to which the permit relates is to be held; or
- (a) the prescribed particulars to be included in the application for that type of permit are not supplied; or
- (b) the applicant has been convicted of—
- (i) an offence against section 9 or 10; or
  - (ii) any other offence under this Act or the regulations in connection with the operation of a rodeo or a rodeo school; or
- (c) the applicant does not agree to operate the rodeo or the rodeo school in accordance with the prescribed conditions for that type of permit or any condition imposed by the Department Head; or
- (d) the facilities and conditions to be provided for animals at the rodeo or rodeo school do not conform to the prescribed minimum requirements.
- (3A) The Department Head may impose any condition in the permit.
- (4) The Minister may by notice in writing signed by the Minister and served personally upon or sent by post to the holder of a permit vary or cancel that person's permit.
- (5) A permit may be cancelled if the holder of the permit has contravened this Act or the regulations or has contravened any of the conditions applying to the permit.

**S. 16(3)(ab)**  
inserted by  
No. 76/2005  
s. 29(2)(a).

**S. 16(3)(b)**  
amended by  
No. 69/2004  
s. 49(3)(c),  
substituted by  
No. 76/2005  
s. 29(2)(b).

**S. 16(3)(c)**  
amended by  
Nos 69/2004  
s. 49(3)(d),  
76/2005  
s. 29(2)(c).

**S. 16(3A)**  
inserted by  
No. 76/2005  
s. 29(3).

**S. 16(5)**  
amended by  
No. 76/2005  
s. 29(4).

s. 17

S. 17  
amended by  
No. 77/1995  
s. 15.

## 17 Offences

A person who—

S. 17(a)  
amended by  
No. 69/2004  
s. 49(4).

(a) operates a rodeo or a rodeo school without holding a permit authorizing that person to do so; or

S. 17(b)  
amended by  
No. 69/2004  
s. 49(4).

(b) operates a rodeo or a rodeo school in contravention of any provision of this Act or the regulations—

is guilty of an offence.

Penalty: 60 penalty units.

Pt 2 Div. 3  
(Heading)  
substituted by  
No. 65/2007  
s. 91.

## Division 3—POCTA Inspectors

S. 18  
(Heading)  
inserted by  
No. 65/2007  
s. 92(1).

## 18 General inspectors

S. 18(1)  
amended by  
No. 65/2007  
s. 92(2).

(1) The following persons are general inspectors—

(a) any member of the police force; and

(b) any person who is—

S. 18(1)(b)(i)  
amended by  
No. 68/1987  
s. 27,  
substituted by  
No. 115/1994  
s. 142(Sch. 2  
item 6).

(i) an inspector of livestock appointed under the **Livestock Disease Control Act 1994**; or

S. 18(1)(b)(ii)  
amended by  
No. 69/2004  
s. 50.

(ii) a full-time or part-time officer of the Royal Society for the Prevention of Cruelty to Animals—

and who is approved as a general inspector by the Minister in writing; and

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- (c) Any person who is an authorised officer under section 72 of the **Domestic (Feral and Nuisance) Animals Act 1994** and who is approved as a general inspector by the Minister in writing, but only in respect of an alleged offence committed or a circumstance occurring in the municipal district for which that person is an authorised officer.
- (2) An approval as a general inspector remains in force for a period—
- (a) specified in the approval; and
- (b) of not more than three years expiring on 30 June in the year that it ceases to have force.
- (3) The Minister may cancel an approval as a general inspector.

S. 18(1)(c)  
amended by  
Nos 77/1995  
s. 16, 22/1996  
s. 18(a)(b),  
65/2007  
s. 92(3).

S. 18(2)  
amended by  
No. 65/2007  
s. 92(5).

S. 18(3)  
amended by  
No. 65/2007  
s. 92(5).

### 18A Specialist inspectors

- (1) The Minister may, by instrument in writing, appoint any person whom the Minister considers to have appropriate qualifications to be a specialist inspector for the purposes of this Part.
- (2) The appointment of a specialist inspector remains in force for a period not exceeding 3 years specified in the instrument of appointment and expiring on 30 June.
- (3) The Minister may cancel the appointment of a specialist inspector.

S. 18A  
inserted by  
No. 77/1995  
s. 17.

s. 19

S. 19  
(Heading)  
inserted by  
No. 65/2007  
s. 93(1).

## 19 Identification certificates of POCTA inspectors

S. 19(1)  
amended by  
Nos 77/1995  
s. 18, 65/2007  
s. 93(2).

(1) The Minister must issue every POCTA inspector (other than a member of the police force) with an identification certificate in the prescribed form.

S. 19(2)  
amended by  
Nos 77/1995  
s. 18, 65/2007  
s. 93(3).

(2) When on duty a POCTA inspector (other than a member of the police force) must on demand produce that certificate.

S. 20  
(Heading)  
inserted by  
No. 65/2007  
s. 94(1).

## 20 Offence to impersonate etc. POCTA inspectors

S. 20  
amended by  
Nos 77/1995  
s. 19, 65/2007  
s. 94(2).

A person who impersonates a POCTA inspector named in an identification certificate or falsely pretends to be a POCTA inspector is guilty of an offence.

Penalty: 20 penalty units.

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**PART 2A—ENFORCEMENT**

**Division 1—Preliminary**

**21 Definitions**

In this Part—

*ruminant* means any animal which is capable of chewing its cud;

*sample*, in relation to a dead animal, includes the whole of the carcass of the animal.

**Division 2—Emergency powers to deal with animals**

**22 Power to seize abandoned animals in public places**

If a POCTA inspector finds an animal in a public place and the inspector reasonably believes that the animal is abandoned the inspector may seize the animal.

**23 Emergency powers of entry in relation to animals**

- (1) If a POCTA inspector suspects on reasonable grounds that on any premises (that is not a person's dwelling) baiting, trap-shooting or the use of animals as lures is occurring, the inspector may, with any assistance that is necessary—
  - (a) enter the premises;
  - (b) inspect and examine any animals, plant, equipment or facility that the inspector reasonably believes is being used for baiting, trap-shooting or luring.
- (2) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling)—

Ss 21-24Q  
amended by  
Nos 77/1995  
ss 20-25,  
58/1997  
s. 96(Sch.  
items 7.3-7.6,  
46/1998  
s. 7(Sch. 1),  
83/2001 ss 4-6,  
103/2003 s. 36,  
69/2004  
ss 51-53,  
50/2005 ss 4-9,  
76/2005  
ss 30-37,  
substituted as  
Pt 2A  
(Heading and  
ss 21-24ZW)  
by No. 65/2007  
s. 95.

- (a) any animals that are ruminants that have been confined without food or water for more than 36 hours; or
- (b) any animals, being mammals (other than ruminants) or birds that have been confined without food or water for more than 24 hours—

the inspector may, with any assistance that is necessary, enter the premises and may feed and water the animals.

- (3) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is in an entanglement, tether or bog or that is showing signs of pain or suffering as a result of any injury or disease, the inspector may, with any assistance that is necessary enter the premises and—
  - (a) free any animal on the premises that is in an entanglement, tether or bog, from the entanglement, tether or bog, without removing it from its housing or the premises on which it is located; or
  - (b) if any animal on the premises is showing signs of pain or suffering as a result of injury or disease, inspect the animal in order to determine whether the animal requires treatment by a veterinary practitioner.
- (4) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or another animal, the inspector may, with any assistance that is necessary enter the premises and—

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- (a) contain any animal in or on the premises; or
  - (b) destroy any animal in or on the premises—  
that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or other animal.

**24 Emergency power to enter and seize or destroy abandoned animals**

- (1) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is abandoned, distressed or disabled the inspector may, with any assistance that is necessary—
  - (a) enter the premises;
  - (b) if the inspector finds any animal on the premises that the inspector reasonably believes is abandoned, distressed or disabled—
    - (i) destroy the animal, if the inspector reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive; or
    - (ii) immediately seize the animal, if the inspector reasonably believes that the animal's welfare is at risk; or
    - (iii) leave notice at the premises that the inspector intends to seize the animal at the end of two days after the giving of the notice, if the inspector is not contacted by the owner or person in charge of the animal within that period.
- (2) If an inspector has left a notice at premises under subsection (1)(b)(iii), and if, on the expiry of the two day period specified in the notice, the inspector has not been contacted by the owner or

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person in charge of the animal the inspector may, with any assistance that is necessary—

- (a) enter the premises;
- (b) search for and seize the animal.

**24A Additional powers that may be exercised on emergency entry**

A POCTA inspector who enters premises under this Division may—

- (a) inspect and take photographs (including video recordings), or make sketches of the premises or any animal or thing in or on the premises;
- (b) take and keep samples of or from any animal or thing in or on the premises;
- (c) open any container at the premises for the purpose of inspecting, or taking a sample of, its contents but must reseal the container after the inspection is made or the sample is taken.

**24B Powers to recover certain costs**

A POCTA inspector may, on behalf of a person who provided food or water to an animal by or under the authority of a POCTA inspector under section 23(2), recover from the owner of the animal the reasonable costs of the food and water in any court of competent jurisdiction as a civil debt recoverable summarily.

**24C Obtaining veterinary treatment**

- (1) If a POCTA inspector reasonably believes that treatment by a veterinary practitioner is necessary for the welfare of an animal, subject to subsection (2), the inspector may arrange for a veterinary practitioner to treat the animal.

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- (2) If a POCTA inspector has formed a belief under subsection (1) that an animal requires treatment by a veterinary practitioner and the owner or person in charge of the animal can be contacted, after reasonable enquiry, the inspector must, before arranging veterinary treatment under subsection (1), give the owner or person an opportunity to arrange for a veterinary practitioner of his or her choice to undertake the required treatment.
  - (3) The inspector may recover the costs of veterinary treatment of an animal arranged under subsection (1) from the owner or the person in charge of the animal treated in a court of competent jurisdiction as a civil debt recoverable summarily.

**24D Emergency powers of veterinary practitioners and superintendents of saleyards**

- (1) A veterinary practitioner may, with any assistance that is necessary, destroy any animal—
  - (a) that is behaving in such a manner and there are such circumstances that the veterinary practitioner reasonably believes that the animal is likely to cause death or serious injury to any person or another animal; or
  - (b) that is abandoned, distressed or disabled if the veterinary practitioner reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive.
- (2) A superintendent of a saleyard may, with any assistance that is necessary, destroy any animal in any saleyard in the municipal district in respect of which the superintendent is appointed—
  - (a) that is behaving in such a manner and there are such circumstances that the superintendent reasonably believes that the

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- animal is likely to cause death or serious injury to any person or another animal; or
- (b) that is abandoned, distressed or disabled if the superintendent reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive.
- (3) In this section, *superintendent of a saleyard* means the person in charge of a livestock saleyard.

### **Division 3—Search for and seizure of animals, warrants and authorisations**

#### **24E Notice to seize animal**

- (1) If the Minister believes on reasonable grounds that an animal is in such a condition, or, in such circumstances, that the animal is likely to become distressed or disabled, the Minister may serve notice that the Minister intends to authorise seizure of the animal.
- (2) A notice under subsection (1) must—
- (a) be in writing; and
  - (b) be served by—
    - (i) giving it personally to the owner of the animal; or
    - (ii) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, giving it personally to the person in charge of the animal; or
    - (iii) leaving it or sending it by post to the last known residential or business address of the owner or the person in charge of the animal; and

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- (c) set out the action that may be taken under section 24F.

**24F Power of specialist inspector to seize animal under authorisation of Minister**

If, on the expiration of 7 days after the service of a notice under section 24E, the Minister is not satisfied that action has been or is being taken to remove the likelihood of the animal becoming distressed or disabled, the Minister may authorise a specialist inspector—

- (a) to seize the animal; and
- (b) to dispose of the animal in the manner determined by the Minister, or otherwise in accordance with Division 6.

**24G Search warrants for abandoned etc animals on premises**

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if the inspector believes on reasonable grounds that there is in or on the premises—
    - (a) an abandoned, diseased, distressed or disabled animal; or
    - (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
    - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
    - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
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- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the POCTA inspector that there are reasonable grounds to believe that there is in or on the premises—
- (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
  - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
  - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section—

the magistrate may issue a search warrant in accordance with the **Magistrates' Court Act 1989**.

- (3) A search warrant issued under this section may authorise a POCTA inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the premises specified in the warrant; and
  - (b) to search for an animal, or an animal of a particular kind, named or referred to in the warrant; and

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- (c) to seize an animal, or an animal of a particular kind, named or referred to in the warrant, and to take the animal to any place that the inspector thinks fit; and
  - (d) to retain possession of any animal seized for the time specified in the warrant; and
  - (e) to examine or inspect an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises, to determine if the animal requires treatment by a veterinary practitioner; and
  - (f) to feed and water an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises; and
  - (g) to free an animal, or an animal of a particular kind, named or referred to in the warrant, from an entanglement, tether or bog in or on the premises; and
  - (h) to take and keep samples of or from an animal, or an animal of a particular kind, named or referred to in the warrant; and
  - (i) to take photographs (including video recordings) or make sketches of an animal, or an animal of a particular kind, named or referred to in the warrant, or other thing on the premises; and
  - (j) to open any container at the premises for the purpose of inspecting, or taking a sample of, its contents, but must reseal the container after the inspection is made or the sample is taken.

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**24H Magistrates' Court may extend period of warrant under section 24G**

- (1) A POCTA inspector to whom a warrant under section 24G has been issued may apply to the Magistrates' Court, before the expiration of the time specified in the warrant for which possession of the animal may be retained, for an extension of that period.
- (2) The Magistrates' Court may order such an extension if it is satisfied that the retention of the animal is necessary for its welfare.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

**Division 4—Search for and seizure of things**

**24I Definition**

In this Division *thing* includes animal.

**24J Seizure of things**

If a POCTA inspector finds—

- (a) in a public place; or
- (b) on premises that the inspector is otherwise authorised to enter under this Part—

a thing that he or she reasonably believes has been used in connection with the commission of an offence against this Act or regulations under this Act, the inspector may do one or more of the following—

- (c) seize the thing;
- (d) inspect or examine the thing;
- (e) measure the thing;
- (f) take photographs (including video recordings) of the thing.

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**24K Search warrants for premises**

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if the inspector believes on reasonable grounds that there is in or on the premises a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there are reasonable grounds to believe that there is a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act in or on any premises, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a POCTA inspector named in the warrant, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
  - (a) to enter the premises specified in the warrant; and
  - (b) to do all or any of the following—
    - (i) search for;
    - (ii) seize;
    - (iii) secure against interference;
    - (iv) examine, inspect and take and keep samples of or from;
    - (v) take photographs (including video recordings) of—

a thing or things of a particular kind named or described in the warrant and which the inspector believes, on reasonable grounds, to be connected with the alleged contravention.

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**24L Additional power of entry for specialist inspectors**

A specialist inspector may, for the purposes of Part 2, this Part or regulations under this Act, and with the prior written authority of the Minister—

- (a) enter premises (that is not a person's dwelling), in or on which an animal or animals are housed or grouped for any purpose; and
- (b) inspect any animal, plant, equipment or structure on the premises; and
- (c) observe any practice being conducted in connection with the management of an animal or animals on the premises.

**Division 5—General provisions as to search warrants**

**24M Provisions as to search warrants**

A search warrant issued under this Part must state—

- (a) the purpose for which the warrant is required and, in the case of a warrant under Division 4, the nature of any alleged contravention; and
- (b) any conditions to which the warrant is subject; and
- (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.

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**24N Application of Magistrates' Court Act 1989**

- (1) Despite section 79 of the **Magistrates' Court Act 1989**, a search warrant under this Part must not authorise an inspector to arrest a person.
- (2) Except as provided by this Part, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this Part.

**24O Announcement before entry**

- (1) On executing a search warrant issued under this Part the inspector executing the warrant—
  - (a) must announce that he or she is authorised by the warrant to enter the premises; and
  - (b) if the inspector has been unable to obtain unforced entry, must give any person at the premises or, if the premises is a vehicle, vessel or aircraft, in or in charge of the vehicle, vessel or aircraft an opportunity to allow entry to the premises, vehicle, vessel or aircraft.
- (2) An inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the search warrant is not frustrated.

**24P Details of warrant to be given to occupier**

- (1) If the occupier is present at the premises or, if the premises is a vehicle, vessel or aircraft, a person is in or in charge of the vehicle, vessel or aircraft when a search warrant issued under this Part is being executed, the inspector must—

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- (a) identify himself or herself to the occupier or person; and
  - (b) give to the occupier or person a copy of the warrant.
- (2) If the occupier is not present at the premises when a search warrant issued under this Part is being executed, the inspector must, if there is a person present at the premises, identify himself or herself to the person and give the person a copy of the warrant.

**24Q Seizure of things not mentioned in the warrant and taking of samples**

- (1) A search warrant issued under this Part authorises an inspector executing the warrant, in addition to the seizure of any animal or other thing of the kind described in the warrant, to seize—
- (a) any animal that is not described in the warrant or that is not of a kind described in the warrant, if the inspector believes, on reasonable grounds—
    - (i) that the welfare of the animal is at risk; or
    - (ii) that the person in charge of the animal is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section; or
    - (iii) that the animal is of a kind that could have been included in a search warrant issued under this Part and that will afford evidence of a contravention of this Act or regulations made under this Act; or

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- (iv) that it is necessary to seize the animal in order to prevent its concealment, loss or destruction or the contravention of this Act or regulations under this Act;
  - (b) any thing (that is not an animal) which is not of the kind described in the warrant if the inspector believes, on reasonable grounds—
    - (i) that the thing is of a kind that could have been included in a search warrant issued under this Part and that will afford evidence about the contravention of this Act or regulations under this Act; and
    - (ii) that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the contravention of this Act or regulations under this Act.
  - (2) A search warrant issued under this Part authorises an inspector executing the warrant, in addition to seizing a thing of the kind described in the warrant, to take a sample of or from any thing that is not of the kind described in the warrant if the inspector believes, on reasonable grounds, that the thing is of a kind—
    - (a) that could have been included in a search warrant issued under this Part; and
    - (b) that will afford evidence about the contravention of this Act or regulations under this Act.
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**Division 6—Duties and powers as to seized animals**

S. 24R  
inserted by  
No. 65/2007  
s. 95.

**24R Duty to take steps to identify owner**

If an animal has been seized under this Part and the identity of both the owner and the person in charge of the animal are not known to the person who seized the animal, the person who seized the animal must take reasonable steps to identify and contact the owner or person in charge of the animal.

S. 24S  
inserted by  
No. 65/2007  
s. 95.

**24S Steps to be taken where welfare of animal not at risk**

- (1) If an animal has been seized under this Part and—
- (a) if after taking all reasonable steps under section 24R, either the owner or the person in charge of the animal is able to be contacted; and
  - (b) neither the owner nor person in charge of the animal is suspected of committing an offence against this Act or regulations under this Act; and
  - (c) the person who seized the animal reasonably believes that the welfare of the animal is not at risk; and
  - (d) application has not been made and is not proposed to be made under section 24X—

the inspector who seized the animal must serve a notice of seizure under this section on the person who is able to be contacted, or cause such a notice to be served in accordance with subsection (2).

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- (2) For the purposes of subsection (1) the notice must—
- (a) be served either personally or by post; and
  - (b) if the animal has been seized under a warrant issued under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (3) If an animal has been seized under this Part and—
- (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and person in charge are known); and
  - (b) neither the owner nor person in charge of the animal is suspected of committing an offence against this Act or regulations under this Act; and
  - (c) the person who seized the animal reasonably believes that the welfare of the animal is not at risk; and
  - (d) application has not been made and is not proposed to be made under section 24X—
- the person who seized the animal must serve a notice of seizure in accordance with subsection (4).
- (4) For the purposes of subsection (3), the notice must—
- (a) if an animal has been seized from premises, be left at the premises from which the animal has been seized or sent by post to those premises; and
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- (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
  - (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—
- (a) a description of the animal; and
  - (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and
  - (c) if the notice is served under subsections (1) and (2)—
    - (i) that the animal may be recovered within 7 days after service of the notice; and
    - (ii) that, if the animal is not recovered within 7 days after service of the notice, the animal may be disposed of in accordance with this Division; and
  - (d) if the notice is left at or sent to premises under subsections (3) and (4)—
    - (i) that the animal may be recovered within 14 days after the leaving or sending of the notice and the place where the animal may be recovered; and
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- (ii) that, if the animal is not recovered within 14 days after the leaving or sending of the notice, the animal may be disposed of in accordance with this Division.

**24T Provision for recovery or disposal of animals that are not at risk**

S. 24T  
inserted by  
No. 65/2007  
s. 95.

- (1) The owner or person in charge of an animal on whom a notice of seizure has been served under section 24S(1) and 24S(2) may recover the animal if, within 7 days of service of the notice—
  - (a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and
  - (b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.
- (2) The owner or person in charge of an animal in respect of which a notice of seizure has been left at or sent to premises under section 24S(3) and 24S(4) may recover the animal if, within 14 days of notice being left at or sent to premises—
  - (a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and
  - (b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.

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- (3) If a notice of seizure has been left at or sent to premises under section 24S and the animal is not recovered under subsection (1) or (2), the animal may be disposed of in accordance with this Division.
- (4) If an animal has been seized in a public place, and—
- (a) the welfare of the animal is not reasonably believed to be at risk; and
  - (b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24S because both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and
  - (c) neither the owner nor the person in charge of the animal has recovered the animal within 14 days of the seizure of the animal—
- the animal may be disposed of in accordance with this Division.

S. 24U  
inserted by  
No. 65/2007  
s. 95.

**24U Steps to be taken where welfare of animal is at risk**

- (1) If an animal has been seized under this Part and—
- (a) if, after taking all reasonable steps under section 24R, either the owner or the person in charge of the animal is able to be contacted; and
  - (b) the person who seized the animal reasonably believes that the welfare of the animal is at risk; and

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- (c) application has been or is proposed to be made under section 24X—

the person who seized the animal must serve a notice of seizure under this section on the person who is able to be contacted, or cause such a notice to be served in accordance with subsection (2).

- (2) For the purposes of subsection (1), the notice must—
- (a) be served either personally or by post; and
  - (b) if the animal has been seized under a warrant under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (3) If an animal has been seized under this Part and—
- (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and person in charge of the animal are known); and
  - (b) the person who seized the animal reasonably believes that the welfare of the animal is at risk; and
  - (c) application has been or is proposed to be made under section 24X—

the person who seized the animal must serve a notice of seizure in accordance with subsection (4).

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- (4) For the purposes of subsection (3), the notice must—
- (a) if the animal has been seized from premises, be left at the premises from which the animal was seized or be sent by post to those premises; and
  - (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
  - (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—
- (a) a description of the animal; and
  - (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and
  - (c) that the animal will be disposed of in accordance with this Division if the owner or person in charge of the animal does not contact the inspector within 14 days after the notice is left at or sent to the premises.

S. 24V  
inserted by  
No. 65/2007  
s. 95.

**24V Power to retain animal for purposes of application under section 24X**

For the purposes of making an application under section 24X, an animal that has been seized under a warrant under section 24G, may continue to be held under the warrant, despite the expiry of the time for which possession of the animal may be retained under the warrant, if notice has been

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served, left or sent in accordance with section 24U.

**24W Power to dispose of animal at risk not claimed by owner or person in charge**

S. 24W  
inserted by  
No. 65/2007  
s. 95.

- (1) If an animal has been seized from premises, and the welfare of the animal is reasonably believed to be at risk, and if within 14 days of—
- (a) a notice being served on the owner or person in charge of the animal under section 24U(1) and 24U(2); or
  - (b) a notice being—
    - (i) left at the premises or sent to the premises under section 24U(3) and 24U(4); or
    - (ii) sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4) (where the address is known)—

whichever is the later—

the owner or person in charge of the animal has not contacted the inspector identified in the notice, the animal may be disposed of in accordance with this Division.

- (2) If an animal has been seized in a public place, and the welfare of the animal is reasonably believed to be at risk, and—
- (a) a notice has been served on the owner of the animal under section 24U(1) and 24U(2) and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 7 days of service of the notice, the animal may be disposed of in accordance with this Division; or

- (b) a notice has been sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4), and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 14 days of the sending of the notice, the animal may be disposed of in accordance with this Division.
- (3) If an animal has been seized in a public place, and—
- (a) the welfare of the animal is reasonably believed to be at risk; and
- (b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24U because both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and
- (c) neither the owner nor the person in charge of the animal has contacted the inspector who seized the animal within 14 days of the seizure—

the animal may be disposed of in accordance with this Division.

S. 24X  
inserted by  
No. 65/2007  
s. 95.

#### **24X Court orders as to costs and disposal of animals**

- (1) If an animal has been seized under this Part and—
- (a) the owner or person in charge of the animal has been charged with an offence against this Act or regulations under this Act in relation to the animal; or
- (b) proceedings for an offence against this Act or regulations under this Act have commenced, in relation to the animal,

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against the owner or person in charge of the animal; or

- (c) the owner or person in charge of the animal has been found guilty of an offence against this Act or regulations under this Act in relation to the animal within the preceding 10 years; or
- (d) the person who seized the animal reasonably believes that the welfare of the animal is at risk—

the person who seized the animal may apply to the Magistrates' Court, or cause an application to be made to the Magistrates' Court for an order under this section.

- (2) On application under subsection (1), the Magistrates' Court may make an order as to one or more of the following—
  - (a) if the animal is not being returned to the owner or person in charge of the animal because there are proceedings against the owner or person in charge of the animal for an offence against this Act or regulations under this Act in relation to the animal, that—
    - (i) the owner or person in charge of the animal pay—
      - (A) a bond or security to the applicant to provide for the care and maintenance of the animal; or
      - (B) any identified costs for the care and maintenance of the animal—  
for the whole or any part of the period of time during which the proceedings are being prosecuted; and

- 
- (ii) any money left over from any payment made under paragraph (a)(i) at the end of the proceedings be repaid to the person who paid the bond or security;
  - (b) in any case where the Court has ordered a payment under paragraph (a), that the animal be disposed of in accordance with this Division if the payment is not made in accordance with the order;
  - (c) that the animal be disposed of in accordance with this Division if the owner or person in charge of the animal is or has been found guilty of an offence against this Act or regulations under this Act within the preceding 10 years;
  - (d) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the welfare of the animal is at risk;
  - (e) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the owner or person in charge of the animal is holding the animal in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
- (3) If the Court is not satisfied that an order should be made under subsection (2), the Court may order that the animal be returned to the owner or person in charge of the animal.

- 
- (4) If the Court orders that the animal be returned to the owner or person in charge of the animal under subsection (3)—
- (a) the owner or person in charge of the animal may recover the animal within 7 days after the making of the order; and
  - (b) if the animal is not recovered within 7 days after the making of the order, the animal may be disposed of in accordance with this Division.

**24Y Methods of disposal of animals**

S. 24Y  
inserted by  
No. 65/2007  
s. 95.

- (1) If an animal is authorised to be disposed of under this Part, the animal may be disposed of—
- (a) if a court has ordered the manner of disposal of the animal, in that manner; or
  - (b) if the Minister has authorised the manner of disposal of the animal under this Part, in that manner;
  - (c) in any case to which paragraph (a) or (b) does not apply—
    - (i) by being sold; or
    - (ii) by being destroyed; or
    - (iii) by being given to a domestic animal business operating from a premises which is registered for the purposes of that business under the **Domestic (Feral and Nuisance) Animals Act 1994**.
- (2) Ownership in any animal given to a domestic animal business under subsection (1)(c) passes to that business when the business takes possession of the animal.

s. 24Z

S. 24Z  
inserted by  
No. 65/2007  
s. 95.

## 24Z Power to destroy diseased or distressed animals

Despite anything to the contrary in this Part, an inspector may destroy an animal seized under this Part at any time after its seizure if—

- (a) a veterinary practitioner has certified that the animal should be immediately destroyed on humane grounds; or
- (b) an inspector under the **Livestock Disease Control Act 1994** knows or reasonably suspects that the animal is diseased or infected with disease.

S. 24ZA  
inserted by  
No. 65/2007  
s. 95.

## 24ZA Disposal of animal by sale

- (1) An animal that is to be disposed of by sale must be offered for sale by public auction or public tender.
- (2) The person who is selling the animal must give public notice that he or she intends to sell the animal by public auction or public tender, at least 14 days before the sale.
- (3) A notice under subsection (2) must include—
  - (a) details of the location where the animal was seized;
  - (b) the kind of animal;
  - (c) if the animal is branded, where and how it is branded;
  - (d) the sex and colour of the animal and any other descriptive marks;
  - (e) the time and place of the auction, or date and time by which written tenders must be submitted.

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**24ZB Costs and proceeds of sold animals**

S. 24ZB  
inserted by  
No. 65/2007  
s. 95.

- (1) The proceeds of sale of an animal, that is not subject to forfeiture to the Crown, that is sold under this Division—
  - (a) must first be applied to the costs incurred in any maintenance, care, removal, transport and sale of the animal; and
  - (b) if any balance is then remaining, it must be paid—
    - (i) to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or
    - (ii) in any other case to the Consolidated Fund.
- (2) If the proceeds of the sale of an animal sold under this Division are not enough to satisfy the costs incurred in any maintenance, care removal, transport and sale of the animal, the outstanding amount may be recovered from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

**24ZC Costs and proceeds of destroyed animals**

S. 24ZC  
inserted by  
No. 65/2007  
s. 95.

- (1) Subject to subsection (2), a person who destroys an animal under this Division may recover the costs of any maintenance, care, removal, transport and destruction of the animal from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

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- (2) Any proceeds derived from the destruction of an animal seized under this Part, that is not subject to forfeiture to the Crown—
- (a) must first be applied to the costs incurred in any maintenance, care, removal, transport and destruction of the animal; and
  - (b) if any balance is then remaining, it must be paid—
    - (i) to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or
    - (ii) in any other case to the Consolidated Fund.

S. 24ZD  
inserted by  
No. 65/2007  
s. 95.

**24ZD Forfeiture of seized animal**

- (1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any animal seized under this Part in relation to the offence be forfeited to the Crown if the person who has been found guilty of the offence is the owner or person in charge of the animal.
- (2) If a forfeited animal is destroyed or sold, the costs associated with any maintenance, care, removal and transport of the animal and the sale or destruction of the animal must be deducted before any amount remaining is paid into the Consolidated Fund.

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**Division 7—Duties and powers as to seized things (that are not animals)**

**24ZE Definition**

In this Division *thing* does not include animal.

S. 24ZE  
inserted by  
No. 65/2007  
s. 95.

**24ZF Receipt must be given for any thing seized**

- (1) An inspector may not seize a thing under this Part that is apparently in the possession or custody of a person, unless the inspector makes out and tenders to the person a receipt for the thing seized that—
  - (a) identifies the thing; and
  - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized from premises, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

S. 24ZF  
inserted by  
No. 65/2007  
s. 95.

**24ZG Copies of certain seized things to be given**

- (1) If an inspector seizes under this Part—
  - (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device that contains information that can be readily copied—the inspector must, before finishing the search, give—
  - (d) a copy of the information, thing or device; and
  - (e) a receipt for the thing—to the owner or custodian of the document.

S. 24ZG  
inserted by  
No. 65/2007  
s. 95.

- 
- (2) Subsection (1) does not apply if the inspector is unable to discover the identity of the owner or custodian of the document, thing or device.
  - (3) If it is not practicable to comply with subsection (1)(d) or (1)(e) in respect of a thing before the inspector finishes the search, the inspector must do so as soon as practicable after finishing the search.
  - (4) In the case of a paper document, the inspector must certify on any copy of the document given to a person under this section that the copy is an accurate copy of the document.
  - (5) A copy of a document certified under subsection (4) is to be received in all courts and tribunals as evidence of equal validity to the original.

S. 24ZH  
inserted by  
No. 65/2007  
s. 95.

#### **24ZH Access to seized things**

- (1) If a thing is seized under this Part, the inspector who seized the thing must, if practicable, allow the person who would normally be entitled to possession of the thing reasonable access to it while it remains in the possession, or under the control, of the inspector.
- (2) This section does not apply—
  - (a) if the inspector has given the person an accurate copy of the thing; or
  - (b) if the possession, use or setting of the thing is an offence against this Act or regulations under this Act.

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**24ZI Return of seized thing before commencement of proceedings**

S. 24ZI  
inserted by  
No. 65/2007  
s. 95.

- (1) If a thing has been seized by an inspector under this Part and proceedings have not been commenced against a person for the commission of an offence in relation to which the thing was seized, any person who claims to be entitled to possession of the thing may apply in writing to the Magistrates' Court for an order directing the inspector to return the thing to the person.
- (2) If an application is made to the Magistrates' Court the applicant must, as soon as possible after filing the application at the Court, give a copy of the application to the inspector.
- (3) After hearing an application, the Magistrates' Court may make an order directing the inspector to return the thing to the applicant—
  - (a) if the Court is satisfied that the thing is reasonably required by the applicant to carry on the applicant's business or occupation; and
  - (b) the Court has considered whether the thing is reasonably likely to be tendered as evidence in proceedings for an offence against this Act or regulations under this Act.
- (4) The Court may include any conditions in the order that it considers appropriate including that the thing be returned for the purposes of proceedings for an offence against this Act or regulations under this Act.
- (5) This section does not apply to a thing, the possession, use, setting or sale of which is an offence against this Act or regulations under this Act.

s. 24ZJ

S. 24ZJ  
inserted by  
No. 65/2007  
s. 95.

### **24ZJ Return of seized things**

If an inspector seizes a thing under this Part that is not a thing—

- (a) the possession, use, setting or sale of which is an offence against this Act or regulations under this Act; or
- (b) that is forfeited to the Crown under section 24ZN—

the inspector must take reasonable steps to return the thing to the person from whom it was seized—

- (c) within 60 days after the day on which it was seized; or
- (d) when the reason for its seizure no longer exists; or
- (e) if proceedings have commenced within 60 days after the day on which the thing was seized or any extended period under section 24ZK, the completion of those proceedings (including any appeal); or
- (f) on the expiry of any court order under section 24ZK that has extended the period during which the thing may be retained by the inspector—

whichever is the later.

S. 24ZK  
inserted by  
No. 65/2007  
s. 95.

### **24ZK Magistrates' Court may extend retention period**

- (1) Subject to subsection (2), an inspector may apply to the Magistrates' Court within 60 days after seizing a thing under this Part, or within any period extended by the Court under this section, for an extension of the period during which the inspector may retain the thing.

- (2) The Court may order an extension if it is satisfied that retention of the thing is necessary for the purposes of the investigation in relation to which the thing was seized.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.
- (4) In ordering an extension the Court must ensure that the period during which a thing may be retained by an inspector does not exceed 12 months after the day that it was seized.

**24ZL Dispute as to person entitled to return of seized thing**

S. 24ZL  
inserted by  
No. 65/2007  
s. 95.

- (1) If a dispute arises as to whom a thing seized by an inspector under this Part should be returned, any person seeking possession of the thing may apply to the Magistrates' Court for an order that the thing be given to that person.
- (2) The person making the application must give notice of the application to the inspector and to every other person that the person should reasonably be aware claims, or may have a claim to, possession or ownership of the thing.
- (3) On receiving notice of an application relating to a thing, the inspector who seized the thing must retain possession of the thing until the application is determined, abandoned or withdrawn.
- (4) After hearing an application, the Magistrates' Court may order the inspector to give the thing to a particular person if it is satisfied—
  - (a) that at the time of making the order, the person has a better claim to the possession of the thing than any other person; and

(b) that every other person whom the Court reasonably believes may have had a claim for possession or ownership of the thing was given notice of the application.

(5) The inspector must comply with the order.

(6) Subsection (4) applies regardless of whether or not the particular person was the applicant.

S. 24ZM  
inserted by  
No. 65/2007  
s. 95.

**24ZM Unclaimed seized thing may be sold or destroyed**

(1) Any thing seized under this Part, that is not subject to forfeiture to the Crown, may be destroyed or sold under the following circumstances—

(a) if the identity of the person from whom the thing was seized is known, that person—

(i) has been notified in writing after the end of the period during which the thing may be retained under this Division that the thing may be claimed; and

(ii) has not claimed the thing within 12 months after that notice is given; or

(b) if the identity of the person from whom the thing was seized is not known, reasonable steps to identify that person have been taken and no person entitled to possession of the thing has been located within 12 months after the end of the period during which the thing may be retained under this Division.

(2) The proceeds from any sale of a thing under subsection (1), less the costs associated with any maintenance, care, removal, transport and sale of the thing, are to be paid into the Consolidated Fund.

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**24ZN Forfeiture of seized things**

S. 24ZN  
inserted by  
No. 65/2007  
s. 95.

- (1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any thing seized under this Part that was used by the person in connection with the offence be forfeited to the Crown.
- (2) If a forfeited thing is sold, the costs associated with any maintenance, care, removal, transport and sale of the thing must be deducted before any amount remaining is paid into the Consolidated Fund.

**Division 8—Samples**

**24ZO Provisions relating to the taking and keeping of samples**

S. 24ZO  
inserted by  
No. 65/2007  
s. 95.

- (1) If an inspector proposes to take a sample of or from an animal or a thing under this Part, the inspector must—
  - (a) advise the owner or person in charge of the animal or thing, if possible before taking the sample—
    - (i) that the sample is to be taken for the purpose of examination or analysis; and
    - (ii) that the owner or person in charge of the animal or thing, subject to subsection (2), has a right to be given a part of the sample in accordance with paragraph (b) if the owner or person so requests; and
  - (b) if the sample is taken for the purpose of analysis and the owner or person in charge of the animal or thing requests to be given a part of the sample, divide the sample into 3 parts and give one part to the owner or

person in charge, one part to the analyst and keep one part untouched for future comparison.

- (2) Despite subsection (1)(b), a sample taken from an animal for analysis must not be divided up into parts if the inspector has been advised by a veterinary practitioner or a pathologist that division of the sample is not practicable or will adversely affect the analysis.

### **Division 9—Further miscellaneous powers, duties and offences**

S. 24ZP  
inserted by  
No. 65/2007  
s. 95.

#### **24ZP Notice to comply**

- (1) If a POCTA inspector reasonably believes that an animal is in a situation where an offence under Part 2 or regulations under this Act is being or is about to be committed, the inspector may issue a notice to—
- (a) the owner of the animal; or
  - (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, the person in charge of the animal—

requiring that person to ensure that the offence is not committed or that the commission of the offence ceases (as the case requires).

- (2) A person to whom a notice has been issued under subsection (1) must comply with the notice.

Penalty: 120 penalty units.

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- (3) A notice issued under subsection (1) must—
- (a) be in writing; and
  - (b) state that it is an offence not to comply with the notice; and
  - (c) set out the maximum penalty for the offence.

**24ZQ Requirement to give information to inspector during entry**

S. 24ZQ  
inserted by  
No. 65/2007  
s. 95.

- (1) To the extent that is reasonably necessary to determine whether an offence against this Act or regulations under this Act has been or is about to be committed, a POCTA inspector exercising a power of entry under this Part who produces his or her identity card for inspection by the occupier of the premises or an agent or employee of the occupier—
- (a) may require that person to give information to the inspector, orally or in writing;
  - (b) if the power is being exercised under a warrant, may require that person to produce anything named or referred to in the warrant;
  - (c) if the power is being exercised under section 23(1), may, on production of his or her identity card for inspection to any person in or on the premises, require the person to give such information as the inspector requests in relation to the suspected baiting, trap-shooting or luring and to answer any questions put to that person by the inspector in relation to the suspected baiting, trap-shooting or luring.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an inspector under subsection (1).

Penalty: 60 penalty units.

- (3) A person must not, when giving information to a inspector under subsection (1) give information that is false or misleading.

Penalty: 60 penalty units.

S. 24ZR  
inserted by  
No. 65/2007  
s. 95.

#### **24ZR Offences as to inspectors**

- (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a POCTA inspector in the discharge of the inspector's powers under this Part.

Penalty: 60 penalty units.

- (2) A person must not refuse admission to a POCTA inspector exercising a power of entry or a person assisting a POCTA inspector in exercising a power of entry under this Part.

Penalty: 60 penalty units.

- (3) A person must not contravene or fail to comply with any direction or requirement of a POCTA inspector who is acting in the discharge of the inspector's powers under this Part.

Penalty: 60 penalty units.

S. 24ZS  
inserted by  
No. 65/2007  
s. 95.

#### **24ZS Offences as to veterinary practitioners etc.**

- (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) in the discharge of that practitioner's or superintendent's powers under this Part.

Penalty: 60 penalty units.

- (2) A person must not contravene or fail to comply with any direction or requirement of a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) who is acting

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in the discharge of that practitioner's or superintendent's powers under this Part.

Penalty: 60 penalty units.

**24ZT Offence to fail to provide name and address**

S. 24ZT  
inserted by  
No. 65/2007  
s. 95.

- (1) If a POCTA inspector believes, on reasonable grounds, that a person has committed an offence against this Part or Part 2, the inspector may ask the person to state his or her name and ordinary place of residence or business.
- (2) In making a request under subsection (1), the inspector must inform the person of the grounds for his or her belief that the person has not complied with the requirement.
- (3) A person must not—
  - (a) refuse or fail to comply with a request under subsection (1) without a reasonable excuse for doing so; or
  - (b) in response to a request under subsection (1)—
    - (i) state a name that is false in a material particular; or
    - (ii) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 10 penalty units.

- (4) If a person states a name and address in response to a request under subsection (1) and the inspector suspects, on reasonable grounds, that the stated name and address may be false, the inspector may request the person to produce evidence of the correctness of the name and address.

- (5) A person to whom a request under subsection (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 10 penalty units.

- (6) It is not an offence for a person to fail to comply with a request under subsection (1) or (4)—
- (a) if the inspector did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or
  - (b) if the inspector did not identify himself or herself in accordance with section 24ZU before making the request.

S. 24ZU  
inserted by  
No. 65/2007  
s. 95.

#### **24ZU POCTA inspectors must identify themselves**

A POCTA inspector must produce proof of his or her identity and official status—

- (a) before exercising a power under section 24ZT; and
- (b) at any time during the exercise of a power under section 24ZT, if asked to do so.

S. 24ZV  
inserted by  
No. 65/2007  
s. 95.

#### **24ZV Protection against self-incrimination**

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Part, if the production of the document would tend to incriminate the person.

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**24ZW Power to file charges**

S. 24ZW  
inserted by  
No. 65/2007  
s. 95.

- (1) A charge for an offence under this Part or Part 2 or an offence under regulations under this Act relating to this Part or Part 2 may only be filed by—
- (a) a member of the police force; or
  - (b) a person who is authorised for that purpose by the Minister in writing and who is—
    - (i) employed under Part 3 of the **Public Administration Act 2004**; or
    - (ii) an officer of a council (but only in respect of an alleged offence committed in the municipal district of the council of which that person is an officer); or
    - (iii) a full-time officer of the Royal Society for the Prevention of Cruelty to Animals.
- (2) An authorisation under subsection (1)(b)—
- (a) must not be for a period of more than 3 years; and
  - (b) remains in force until 30 June in the year specified in the authorisation as the year in which it ceases to have effect.
- (3) The Minister may cancel an authorisation under subsection (1)(b).
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**PART 3—SCIENTIFIC PROCEDURES**

**Division 1—Preliminary**

Pt 3 Div. 1  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**25 Definitions**

In this Part—

S. 25  
amended by  
Nos 65/1994  
s. 5(1),  
58/1997  
s. 96(Sch.  
item 7.7),  
83/2001 s. 7,  
substituted by  
No. 103/2003  
s. 37.

*animal* means—

S. 25 def. of  
*animal*  
inserted by  
No. 65/2007  
s. 96.

- (a) a live member of a vertebrate species including any—
  - (i) fish or amphibian; or
  - (ii) reptile, bird or mammal, other than any human being or any reptile, bird or other mammal that is below the normal mid-point of gestation or incubation for the particular class of reptile, bird or mammal; or
- (b) a live adult decapod crustacean, that is—
  - (i) a lobster; or
  - (ii) a crab; or
  - (iii) a crayfish; or
- (c) a live adult cephalopod including—
  - (i) an octopus; or

- (ii) a squid; or
- (iii) a cuttlefish; or
- (iv) a nautilus;

***authorised officer*** means a person appointed to be an authorised officer under section 35;

***Peer Review Committee*** means a Peer Review Committee established under section 34;

***program of scientific procedures*** means a series of scientific procedures each of which is being carried out in conjunction with the others;

***specified animal*** means—

- (a) guinea pig; and
- (b) rat, mouse or rabbit, other than a rat, mouse or rabbit bred in its native habitat; and
- (c) non-human primate.

## Division 2—Offences

Pt 3 Div. 2  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

### 26 Offences relating to scientific procedures carried out at scientific premises

S. 26  
amended by  
Nos 68/1987  
s. 28, 65/1994  
s. 5(2)(3),  
77/1995 s. 26,  
76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

- (1) A person who occupies a scientific premises must not cause or allow scientific procedures to be carried out on those premises unless that person holds a scientific procedures premises licence for

S. 26(1)  
amended by  
No. 65/2007  
s. 97.

that premises that authorises the carrying out of those procedures.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 26(2)  
amended by  
No. 65/2007  
s. 97.

- (2) A person who occupies a premises at which scientific procedures are carried out or are proposed to be carried out must nominate a person to be responsible for any procedures carried out on those premises.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 26(3)  
amended by  
No. 65/2007  
s. 97.

- (3) A person nominated under subsection (2) must not cause or allow scientific procedures to be carried out at the premises for which he or she has been nominated unless the nominated person reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 26(4)  
amended by  
No. 65/2007  
s. 97.

- (4) A person must not carry out a scientific procedure at a scientific premises unless the person carrying out the procedure reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that

premises that authorises the carrying out of those procedures.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

**27 Offences relating to scientific procedures carried out outside scientific premises**

S. 27  
amended by  
No. 77/1995  
s. 27,  
substituted by  
No. 103/2003  
s. 37.

(1) A person must not—

- (a) carry out a scientific procedure or a program of scientific procedures; or
- (b) cause or allow a scientific procedure or program of scientific procedures to be carried out on that person's behalf—

S. 27(1)  
amended by  
No. 65/2007  
s. 98.

at any place that is not a scientific premises unless the person is—

- (c) the holder of a scientific procedures field work licence; or
- (d) the holder of a scientific procedures premises licence that authorises the carrying out of that work.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

(2) A person must not—

- (a) carry out a scientific procedure or a program of scientific procedures; or

S. 27(2)  
amended by  
No. 65/2007  
s. 98.

(b) allow a scientific procedure or program of scientific procedures to be carried out—

on another person's behalf at any place that is not a scientific premises unless the person who so carries out or allows procedures to be carried out reasonably believes that the person on whose behalf the procedure or program is being carried out is—

(c) the holder of a scientific procedures field work licence; or

(d) the holder of a scientific procedures premises licence that authorises the carrying out of the procedure or program.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 28  
amended by  
Nos 77/1995  
s. 28, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

## **28 Offences relating to breeding of specified animals for use in scientific procedures**

(1) A person who occupies premises must not cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures, unless the person is the holder of a specified animals breeding licence.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

S. 28(1)  
amended by  
No. 65/2007  
s. 99.

- (2) A person must not breed specified animals on any premises for the purposes of use in scientific procedures unless the person who breeds the animals reasonably believes that the occupier of the premises is the holder of a specified animals breeding licence.

S. 28(2)  
amended by  
No. 65/2007  
s. 99.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (3) This section does not apply to breeding of specified animals at any scientific premises if the breeding is being carried out for the purposes of scientific procedures being carried out at that premises under a scientific procedures premises licence.

### **Division 3—Scientific procedures premises licences**

Pt 3 Div. 3  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

### **29 Grant of a scientific procedures premises licence**

The Department Head may licence a person who occupies a scientific premises to cause or allow scientific procedures to be carried out—

- (a) on those premises; or  
(b) on behalf of the holder of the licence, at any other place specified in the licence.

S. 29  
amended by  
Nos 77/1995  
s. 29, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

s. 30

S. 30  
amended by  
No. 77/1995  
s. 30(1)(a)(b),  
substituted by  
No. 103/2003  
s. 37.

### 30 Application for a scientific procedures licence

- (1) A person who is the occupier of a scientific premises may apply to the Department Head for the grant of a scientific procedures premises licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

S. 31  
repealed by  
No. 65/1994  
s. 4, new s. 31  
inserted by  
No. 103/2003  
s. 37.

### 31 Duration of scientific procedures premises licences

- (1) A scientific procedures premises licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures premises licence expires on 30 June in the year that it ceases to have force.

S. 32  
amended by  
Nos 65/1994  
s. 5(4),  
77/1995  
s. 30(2),  
substituted by  
No. 103/2003  
s. 37.

### 32 Conditions on scientific procedures premises licences

- (1) A scientific procedures premises licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 32(2)  
amended by  
No. 65/2007  
s. 100.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (3) A person who is carrying out a scientific procedure under a scientific procedures premises licence must comply with the conditions to which the licence is subject.

S. 32(3)  
amended by  
No. 65/2007  
s. 100.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

#### **Division 4—Scientific procedures field work licences**

Pt 3 Div. 4  
(Heading and  
ss 32A–32D)  
inserted by  
No. 103/2003  
s. 37.

#### **32A Grant of a scientific procedures field work licence**

S. 32A  
inserted by  
No. 103/2003  
s. 37.

The Department Head may licence a person—

- (a) to carry out a scientific procedure or a program of scientific procedures; or
- (b) to cause or allow a scientific procedure or a program of scientific procedures to be carried out—

outside scientific premises.

#### **32B Application for a scientific procedures field work licence**

S. 32B  
inserted by  
No. 103/2003  
s. 37.

- (1) A person may apply to the Department Head for the grant of a scientific procedures field work licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

s. 32C

S. 32C  
inserted by  
No. 103/2003  
s. 37.

**32C Duration of scientific procedures field work licences**

- (1) A scientific procedures field work licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures field work licence expires on 30 June in the year that it ceases to have force.

S. 32D  
inserted by  
No. 103/2003  
s. 37.

**32D Conditions on scientific procedures field work licences**

- (1) A scientific procedures field work licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 32D(2)  
amended by  
No. 65/2007  
s. 101.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

S. 32D(3)  
amended by  
No. 65/2007  
s. 101.

- (3) A person who is carrying out a scientific procedure under a scientific procedures field work licence must comply with the conditions to which the licence is subject.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

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**Division 5—Specified animals breeding licences**

Pt 3 Div. 5  
(Heading and  
ss 32E–32H)  
inserted by  
No. 103/2003  
s. 37.

**32E Grant of a specified animals breeding licence**

S. 32E  
inserted by  
No. 103/2003  
s. 37.

The Department Head may licence a person who occupies premises to cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures.

**32F Application for a specified animals breeding licence**

S. 32F  
inserted by  
No. 103/2003  
s. 37.

- (1) A person who is the occupier of a premises may apply to the Department Head for the grant of a specified animals breeding licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**32G Duration of specified animals breeding licence**

S. 32G  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A specified animals breeding licence expires on 30 June in the year that it ceases to have force.

**32H Conditions on specified animals breeding licence**

S. 32H  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.

**s. 32I**

S. 32H(2)  
amended by  
No. 65/2007  
s. 102.

- (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

S. 32H(3)  
amended by  
No. 65/2007  
s. 102.

- (3) A person who is breeding specified animals under a specified animals breeding licence must comply with the conditions to which the licence is subject.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

Pt 3 Div. 6  
(Heading and  
ss 32I–32R)  
inserted by  
No. 103/2003  
s. 37.

**Division 6—General licensing provisions**

S. 32I  
inserted by  
No. 103/2003  
s. 37.

**32I Power of Department Head to renew licences**

On the expiration of a licence granted under this Part, the Department Head may renew the licence.

S. 32J  
inserted by  
No. 103/2003  
s. 37.

**32J Application to renew a licence**

- (1) Before a licence granted under this Part expires, the holder may apply to the Department Head for the renewal of the licence.
- (2) An application under subsection (1)—
- (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under this section must give to the Department Head any further information relating to the application that the Department Head requests.

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**32K Power of the Department Head to vary licences**

S. 32K  
inserted by  
No. 103/2003  
s. 37.

The Department Head may, either on the application of the holder of a licence issued under this Part, or on the Department Head's own motion—

- (a) vary such a licence; or
- (b) vary a condition on such a licence, other than a prescribed condition.

**32L Variation of licence on the motion of the Department Head**

S. 32L  
inserted by  
No. 103/2003  
s. 37.

- (1) Before—
  - (a) varying a licence issued under this Part; or
  - (b) varying a condition on such a licence—  
of his or her own motion under section 32K, the Department Head must—
  - (c) notify the holder of the licence; and
  - (d) allow the holder an opportunity to make written submissions.
- (2) Submissions under subsection (1) must be made within the time period specified in the notice.
- (3) In making a decision as to whether or not to vary a licence under section 32K, the Department Head must—
  - (a) have regard to submissions made within the period for making submissions; and
  - (b) notify the holder of his or her decision.
- (4) A variation to which subsection (1) applies has effect from the time specified in the notice under subsection (3).

s. 32M

S. 32M  
inserted by  
No. 103/2003  
s. 37.

**32M Application to vary a licence**

- (1) The holder of a licence issued under this Part may apply to the Department Head for—
  - (a) variation of the licence; or
  - (b) variation of a condition of the licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under subsection (1) must give to the Department Head any further information relating to the application that the Department Head requests.

S. 32N  
inserted by  
No. 103/2003  
s. 37.

**32N Suspension of licence and notice of proposal to cancel**

- (1) If the Department Head is satisfied that there may be grounds for cancelling a licence issued under this Part, the Department Head may suspend that licence.
- (2) The Department Head must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under subsection (2) must—
  - (a) state that the licence is suspended; and
  - (b) state that the Department Head is satisfied that there are grounds for the cancellation of the licence; and
  - (c) set out those grounds; and

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- (d) set out the time within which written submissions on the proposed cancellation of the licence may be made to the Department Head.
- (4) A suspension under this section remains in force until—
- (a) if the Department Head decides to cancel the licence, the coming into effect of that cancellation; or
- (b) if the Department Head decides not to cancel the licence, the making of that decision.
- (5) The holder of a licence whose licence is suspended under this section is deemed not to be the holder of a licence for the period of the suspension.

**32O Making of submissions on suspension**

S. 32O  
inserted by  
No. 103/2003  
s. 37.

- (1) The holder of a licence issued under this Part whose licence has been suspended under section 32N may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under subsection (1) must be made within the time fixed by the Department Head under section 32N(3)(d).

**32P Power of the Department Head to cancel a licence**

S. 32P  
inserted by  
No. 103/2003  
s. 37.

If, after considering any submissions made within the time fixed for making submissions under section 32N(3)(d), the Department Head is satisfied that—

- (a) in the case of a licence holder who is a natural person, the licence holder is not a fit and proper person to hold the licence; or

s. 32Q

- (b) in the case of a licence holder who is a body corporate, any director or officer of the body corporate who does or may exercise control over the service that is the subject of the licence is not a fit and proper person to be a director or officer of such a licence holder; or
- (c) the licence holder has failed to comply with a condition of the licence; or
- (d) the licence holder has been found guilty of an offence against this Act or the regulations—

the Department Head may cancel the licence.

S. 32Q  
inserted by  
No. 103/2003  
s. 37.

### **32Q Notice of Department Head's decision**

- (1) The Department Head must give notice to the holder of a licence that has been suspended under section 32N of the Department Head's decision under section 32P and set out reasons for that decision in the notice.
- (2) A notice under subsection (1) must be served on the licence holder within 28 days after the expiry of the date for the making of submissions under section 32N(3)(d).

S. 32R  
inserted by  
No. 103/2003  
s. 37.

### **32R Coming into effect of cancellation**

Cancellation of a licence by the Department Head has effect from the time at which notice of the cancellation is served on the licence holder.

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**Division 7—Miscellaneous**

Pt 3 Div. 7  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**33 Review by Victorian Civil and Administrative Tribunal**

S. 33  
amended by  
Nos 65/1994  
s. 5(5)(a)(b),  
77/1995  
s. 31,  
substituted by  
No. 52/1998  
s. 311(Sch. 1  
item 75).

- (1) A person whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a decision refusing to grant or renew a scientific procedures premises licence, scientific procedures field work licence or a specified animals breeding licence; or
  - (b) a decision to impose conditions on such a licence; or
  - (c) a decision to cancel or suspend such a licence.
- (2) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 33(1)  
amended by  
No. 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 38.

### 34 Peer Review Committee

S. 34(1)  
amended by  
No. 103/2003  
s. 39(a).

- (1) The Minister may establish Peer Review Committees and determine terms of reference for the Committees in relation to any aspect of scientific procedures or scientific research at any one or more or all scientific premises at which scientific procedures are carried out under a scientific procedures premises licence.
- (2) Every Peer Review Committee is to consist of not less than five persons appointed as members by the Minister of whom—
  - (a) one is a person with experience in the area of animal welfare; and
  - (b) the remainder of whom are persons each with expert skill or knowledge in an area which is relevant to scientific procedures or scientific research at scientific premises under a scientific procedures premises licence.
- (3) A person who obstructs or fails to give any reasonable assistance to a member of a Peer Review Committee or the Committee in the exercise of that member's or the Committee's duties is guilty of an offence.

S. 34(2)(b)  
amended by  
No. 103/2003  
s. 39(b).

Penalty: For a person who is a corporation—  
100 penalty units.

For a person other than a corporation—  
20 penalty units.

### 35 Authorized officers

- (1) The Minister may in writing appoint any person whom the Minister considers to have appropriate qualifications to be an authorized officer for the purposes of this Part generally or for any specific purpose under this Part specified in the instrument of appointment.

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- (2) The appointment of an authorized officer remains in force for a period—
- (a) specified in the instrument of appointment; and
  - (b) of not more than three years expiring on 30 June in the year that it ceases to have force.
- (3) The Minister may cancel the appointment of an authorized officer.
- (4) The Minister must issue every authorized officer with an identification certificate in the prescribed form.
- (5) When on duty an authorized officer must on demand produce that certificate.
- (6) A person who impersonates an authorized officer named in an identification certificate or falsely pretends to be an authorized officer is guilty of an offence.

Penalty: 10 penalty units.

- (7) Subject to the purposes specified in the instrument of appointment of an authorized officer, the officer has the following powers:
- (a) Power to enter with such assistance as is required—
    - (i) any premises in respect of which a licence has been issued under this Part at any reasonable time to inspect the animals, facilities and premises at the establishment; or

**S. 35(7)(a)(i)**  
amended by  
**No. 103/2003**  
**s. 40(a).**

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- (ii) any premises if the officer suspects on reasonable grounds that the premises are used for the carrying out of any scientific procedure or for the breeding of specified animals;
- (b) Power to issue an order in the prescribed form requiring—
- (i) the destruction or treatment of any animal found on the premises under paragraph (a) and in the case of a requirement for destruction, giving reasons for that requirement; or
- (ii) that any animal found on the premises under paragraph (a) be housed or fed in accordance with the regulations;
- (c) Power to file a charge for any offence under this Part or any offence under the regulations relating to this Part;
- (d) Power to require any person at the premises referred to in paragraph (a) to give such information as the officer directs and answer any questions put to that person by the officer.
- (8) Only an authorized officer may file a charge for any offence under this Part or any offence under the regulations relating to this Part.
- S. 35(7)(c) amended by No. 57/1989 s. 3(Sch. item 161.1).
- S. 35(7)(d) amended by No. 103/2003 s. 40(b).
- S. 35(8) amended by No. 57/1989 s. 3(Sch. item 161.2).

### 36 Offences

- S. 36(1) amended by Nos 77/1995 s. 30(3), 103/2003 s. 41, 65/2007 s. 103(1).
- (1) A person who knowingly or negligently does or omits to do any act with the result that unnecessary, unreasonable or unjustifiable pain or suffering is caused to any animal kept at a premises in respect of which a licence has been issued under this Part or used for the purpose of
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carrying out a scientific procedure, is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units.

- (2) A person who carries out any surgical operation on an animal unless—
- (a) during the entire length of the operation, the animal is under the influence of an anaesthetic so as to be insensible to any pain it might otherwise have suffered; and
  - (b) the operation is carried out in accordance with any relevant Code of Practice—

**S. 36(2)**  
amended by  
Nos 77/1995  
s. 30(3),  
65/2007  
s. 103(2).

is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units.

- (3) If an animal has been so injured in the course of a scientific procedure that it would seriously suffer if it remained alive, a person who fails to destroy the animal painlessly is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units.

**S. 36(3)**  
amended by  
Nos 77/1995  
s. 30(3),  
65/2007  
s. 103(3).

\* \* \* \* \*

**S. 37**  
repealed by  
No. 65/2007  
s. 104.

Pt 3A  
(Heading and  
ss 37A–37H)  
inserted by  
No. 103/2003  
s. 42.

## PART 3A—INFRINGEMENT NOTICES

S. 37A  
inserted by  
No. 103/2003  
s. 42.

### 37A Power to serve a notice

- (1) An authorised officer may serve an infringement notice on any person that he or she has reason to believe has committed—
  - (a) an offence against section 15A(2); or
  - (b) a prescribed offence against the regulations.
- (2) In this Part a reference to an "authorised officer" is a reference to—
  - (a) in the case of an offence relating to a scientific procedure (within the meaning of Part 3) an authorised officer, within the meaning of section 25; and
  - (b) in any other case, an inspector within the meaning of section 8, being in the case of an inspector who has been approved under section 18, any case for the purposes of which the inspector has been approved.
- (3) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006** and the penalty for that offence is the prescribed infringement penalty in respect of that offence.

S. 37A(3)  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(1)).

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**37B Form of notice**

For the purposes of section 37A, an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional information approved by the Department Head.

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S. 37B  
inserted by  
No. 103/2003  
s. 42,  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(2)).

Ss 37C–37H  
inserted by  
No. 103/2003  
s. 42,  
repealed by  
No. 32/2006  
s. 94(Sch.  
item 39(3)).

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## PART 4—MISCELLANEOUS

### 38 Delegation

S. 38(1)  
amended by  
No. 65/2007  
s. 105.

- (1) The Minister may by instrument of delegation delegate to any person any power, duty or function of the Minister under this Act or regulations under this Act other than this power of delegation.

S. 38(2)  
amended by  
Nos 77/1995  
s. 32, 76/1998  
s. 27(b),  
65/2007 s. 105.

- (2) The Department Head may by instrument of delegation delegate to any person any power, duty or function of the Department Head under this Act or regulations under this Act other than this power of delegation.

### 39 Evidence

In any legal proceedings under this Act—

- (a) the production of a copy of the Government Gazette containing any matters required by or under this Act to be published in the Government Gazette is conclusive evidence of those matters; and
- (b) in the absence of evidence to the contrary, proof is not required of—
- (i) the approval of a person as an inspector (as defined in section 8); or
  - (ii) the appointment of any other employee in the Department for the purposes of this Act; or
  - (iii) the authority of any authorized officer appointed under section 35 to take proceedings for an offence of a class referred to in that section; or

S. 39(b)(ii)  
amended by  
Nos 77/1995  
s. 33, 46/1998  
s. 7(Sch. 1).

- (iv) the authority of any person authorized under section 24 to take proceedings for an offence of a class referred to in that section.

**40 Neglect to prosecute**

If a person who filed a charge for an alleged offence under this Act or the regulations does not appear at the hearing or in any other way fails to proceed with the prosecution, the court hearing the alleged offence may authorize another person to take or continue the proceedings for that offence, whether upon that charge or not.

S. 40  
amended by  
No. 57/1989  
s. 3(Sch. item  
161.3(a)(b)).

**41 Liability for offences**

- (1) If two or more persons are guilty of an offence under this Act or the regulations each of those persons is liable to the penalty for that offence without affecting the liability of any other person.
- (2) Any person who aids or abets the commission of an offence under this Act or the regulations is guilty of the offence.

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S. 41(3)(4)  
repealed by  
No. 65/2007  
s. 106.

- (5) If this Act provides or the regulations provide that a person, being a partnership or an unincorporated body, is guilty of an offence, that reference to a person is to be construed as a reference to each member of the partnership or of the committee of management of the unincorporated body (as the case may be).

**s. 41AA**

S. 41(6)  
amended by  
No. 57/1989  
s. 3(Sch. item  
161.4(a)(b)),  
repealed by  
No. 65/2007  
s. 106.

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S. 41AA  
inserted by  
No. 65/2007  
s. 107.

**41AA Offences by bodies corporate**

- (1) If a body corporate contravenes any provision of this Act, each officer of the body corporate is deemed to have contravened the same provision if the officer knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act.

S. 41AB  
inserted by  
No. 65/2007  
s. 107.

**41AB Conduct by officers, employees or agents**

- (1) If, in any proceedings under this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
  - (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or
  - (b) that the conduct was engaged in by an agent of the body corporate and—
    - (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
    - (ii) the agent had that state of mind; and

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- (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a body corporate is deemed to have been engaged in also by the body corporate if the conduct was engaged in by—
- (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
  - (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer.
- (3) If, in any proceedings under this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by an employee of that person within the scope of the employee's actual or apparent authority and the employee had that state of mind; or
  - (b) that the conduct was engaged in by an agent of the person and—
    - (i) the agent acted at the specific direction or with the specific consent or agreement of the person; and
    - (ii) the agent had that state of mind; and
    - (iii) the person was aware of the agent's state of mind when the conduct was engaged in.
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**s. 41AC**

- (4) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a person other than a body corporate (*the principal*) is deemed to have been engaged in also by the principal if the conduct was engaged in by—
- (a) an employee of the principal within the scope of the employee's actual or apparent authority; or
  - (b) any other person at the specific direction or with the specific consent or agreement of an employee of the principal, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee.
- (5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

S. 41AC  
inserted by  
No. 65/2007  
s. 107.

**41AC Time for filing certain charges under this Act**

Despite anything to the contrary in section 26(4) of the **Magistrates' Court Act 1989**, proceedings for any offence under section 9, section 10, Part 3 or any regulations relating to Part 3 may be commenced within the period of three years after the date on which the alleged offence was committed.

S. 41A  
inserted by  
No. 103/2003  
s. 43.

**41A Council employees etc. not subject to offence for giving information**

- (1) If—
- (a) an officer, employee or contractor of a Council gives the name and address of an owner of land or of an animal to an inspector for the purposes of enabling the inspector to exercise a power under this Act; and

- (b) the officer, employee or contractor has obtained that information in the course of his or her employment with the Council or under his or her contract with the Council (as the case requires)—

the officer, employee or contractor does not commit any offence under the **Local Government Act 1989**, regulations or local laws made under that Act or any other law in so doing.

- (2) In this section *Council* has the same meaning as in the **Local Government Act 1989**.

#### 42 Regulations

- (1) The Governor in Council may make regulations for or with respect to any of the following matters—

- (a) prescribing forms (including the form of an identification certificate of an inspector or specialist inspector (as defined in section 8) or an authorized officer (as defined in section 25) and the form of orders to be issued by authorized officers requiring the destruction, treatment, housing or feeding of any animal) and fees;
- (b) traps, including but not limited to the following—
- (i) the nature, dimensions and features of traps;
  - (ii) the use of traps;
  - (iii) the purposes for which and the places in which traps may be used;
- (c) the conditions under which animals may be kept in captivity, including the sizes of enclosures and cages;

S. 42(1)(a)  
amended by  
No. 77/1995  
s. 34(a).

S. 42(1)(b)  
substituted by  
No. 65/2007  
s. 108(1)(a).

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**s. 42**

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**S. 42(1)(d)**  
amended by  
No. 69/2004  
s. 49(5),  
substituted by  
No. 65/2007  
s. 108(1)(b).

- (d) rodeo licences, rodeo school permits and rodeo permits, including, but not limited to—
- (i) granting or issuing licences or permits; or
  - (ii) conditions on licences or permits; or
  - (iii) applications for licences or permits;

**S. 42(1)(da)**  
inserted by  
No. 65/2007  
s. 108(1)(b).

- (da) the conduct of rodeos or the operation of rodeo schools, including, but not limited to obligations imposed on persons who—
- (i) participate in; or
  - (ii) conduct or operate; or
  - (iii) assist in the conduct or operation of; or
  - (iv) are otherwise involved in—
- rodeos or rodeo schools;

**S. 42(1)(e)**  
substituted by  
No. 103/2003  
s. 44(1)(a).

- (e) applications for and the grant of licences under Part 3, including requirements to be satisfied before the grant of such licences;

**S. 42(1)(ea)**  
inserted by  
No. 103/2003  
s. 44(1)(a).

- (ea) standards for—
- (i) facilities and equipment at; and
  - (ii) scientific procedures to be carried out at—

any premises to which a licence granted under Part 3 applies; and

**S. 42(1)(eb)**  
inserted by  
No. 103/2003  
s. 44(1)(a).

- (eb) conditions on licences granted under Part 3;

**S. 42(1)(f)**  
amended by  
Nos 77/1995  
s. 34(b),  
76/1998  
s. 27(b).

- (f) the particulars to be contained in any records, reports or returns for the purposes of this Act and the intervals at which a copy of any such record, report or return must be sent to the Department Head;
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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| (g) regulating the lighting, ventilation, air temperature, cleaning, drainage, water supply, maintenance and management of any premises to which a licence granted under Part 3 applies and the cleansing and maintenance of all fixtures, appliances, instruments and utensils at or any other things connected or used with those things at any premises to which a licence granted under Part 3 applies; | S. 42(1)(g) amended by No. 103/2003 s. 44(1)(b).                                           |
| (h) the minimum requirements for the training, experience and academic qualifications of a person in charge of any premises to which a licence granted under Part 3 applies;                                                                                                                                                                                                                                | S. 42(1)(h) substituted by No. 103/2003 s. 44(1)(c).                                       |
| * * * * *                                                                                                                                                                                                                                                                                                                                                                                                   | S. 42(1)(i) repealed by No. 65/1994 s. 5(6).                                               |
| * * * * *                                                                                                                                                                                                                                                                                                                                                                                                   | S. 42(1)(j) substituted by No. 103/2003 s. 44(1)(d), repealed by No. 65/2007 s. 107(1)(c). |
| (k) membership of animal ethics committees and the operation of such committees;                                                                                                                                                                                                                                                                                                                            | S. 42(1)(k) substituted by No. 103/2003 s. 44(1)(e).                                       |
| (l) prohibiting absolutely or in part certain scientific procedures or imposing conditions on or regulating the carrying out of the whole or part of any such procedures;                                                                                                                                                                                                                                   | S. 42(1)(l) amended by No. 103/2003 s. 44(1)(f).                                           |
| (m) prescribing—                                                                                                                                                                                                                                                                                                                                                                                            | S. 42(1)(m) amended by No. 103/2003 s. 44(1)(g).                                           |
| (i) purposes for the purposes of paragraph (f); and                                                                                                                                                                                                                                                                                                                                                         |                                                                                            |
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- (ii) any or any type of procedure, test, experiment, inquiry, investigation or study for the purposes of paragraph (j)—

of the definition of *scientific procedure* in section 3;

S. 42(1)(n)  
repealed by  
No. 103/2003  
s. 44(1)(h).

\* \* \* \* \*

S. 42(1)(na)  
inserted by  
No. 83/2001  
s. 8,  
substituted by  
No. 103/2003  
s. 44(2).

- (na) prohibiting or regulating—
- (i) any medical or veterinary procedure conducted on animals; or
- (ii) any method of capture of animals; or
- (iii) any method or procedure of transport of animals—

that may cause injury, suffering or distress to animals;

S. 42(1)(nb)  
inserted by  
No. 83/2001  
s. 8,  
substituted by  
No. 103/2003  
s. 44(2).

- (nb) prohibiting or regulating the possession or use of any implement, device or thing that may cause injury, suffering or distress in an animal;

S. 42(1)(nc)  
inserted by  
No. 83/2001  
s. 8,  
repealed by  
No. 103/2003  
s. 44(2).

\* \* \* \* \*

- (o) generally prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

- (2) The regulations—
- (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may impose penalties not exceeding 20 penalty units for a contravention of or an offence under the regulations; and
  - (d) may apply, adopt or incorporate (with or without modification)—
    - (i) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether as formulated, issued, prescribed or published at the time the regulations are made, or at any time before then; or
    - (ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under any such Act, whether as in force at a particular time or from time to time; and
  - (e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Minister; and
  - (f) may confer powers or impose duties in connexion with the regulations on the Minister.
- (3) The regulations do not apply to any act or practice with respect to the farming, transport, sale or killing of any farm animal if that act or practice is carried out in accordance with a Code of Practice.

S. 42(2)(c)  
amended by  
Nos 103/2003  
s. 44(3),  
65/2007  
s. 108(2).

Pt 5 (Heading  
and s. 43)  
inserted by  
No. 11/2000  
s. 6.

**PART 5—TRANSITIONALS**

S. 43  
inserted by  
No. 11/2000  
s. 6.

**43 Prevention of Cruelty to Animals (Amendment)  
Act 2000**

A Code of Practice prepared by the Minister and published under section 7 as in force immediately before the date of commencement of section 4 of the **Prevention of Cruelty to Animals (Amendment) Act 2000** is, on that commencement, deemed to be a Code of Practice made by the Governor in Council and published under section 7 as amended by section 4 of that Act and may be varied or revoked accordingly.

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Sch.

**SCHEDULE**

Section 15C

Sch.  
substituted by  
No. 65/2007  
s. 110(Sch. 2).

**TABLE OF DISEASES CAUSED BY HERITABLE DEFECTS**

<i>Column 1</i> <i>Species</i>	<i>Column 2</i> <i>Disease</i>
Dogs	Von Willebrand's Disease (VWD) Progressive Retinal Atrophy (PRA) Neuronal Ceroid Lipofuscinosis (NCL) Collie Eye Anamoly (CEA/CH) Hereditary Cataract (HC)
Cats	Polycystic Kidney Disease (PKD) Mutations causing aplasia or hypoplasia of any long bone Folded ears due to osteochondrodysplasia

## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Council: 28 November 1985*

*Legislative Assembly: 8 May 1986*

The long title for the Bill for this Act was "A Bill to make changes to the law relating to the prevention of cruelty to animals, to repeal the **Protection of Animals Act 1966** and for other purposes."

The **Prevention of Cruelty to Animals Act 1986** was assented to on 20 May 1986 and came into operation as follows:

Sections 2, 3, 7 on 15 October 1986: Government Gazette 15 October 1986 page 3953; sections 1, 4–6, 8–25, 26 (*except (2)(h)*), 27–41, 42 (*except (1)(n)*) on 4 March 1987: Government Gazette 7 January 1987 page 5; sections 26(2)(h), 42(1)(n) on 7 December 1988: Government Gazette 7 December 1988 page 3659.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Prevention of Cruelty to Animals Act 1986** by Acts and subordinate instruments.

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### **Agricultural Acts (Further Amendment) Act 1987, No. 68/1987**

*Assent Date:* 24.11.87  
*Commencement Date:* S. 27 on 25.11.87: Government Gazette 25.11.87 p. 3215; s. 28 on 7.12.88: Government Gazette 7.12.88 p. 3659; s. 26 on 12.8.99: Government Gazette 29.7.99 p. 1738  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agricultural Acts (Amendment) Act 1988, No. 35/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 24 on 1.6.88: Government Gazette 1.6.88 p. 1486  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

### **Meat Industry Act 1993, No. 40/1993**

*Assent Date:* 1.6.93  
*Commencement Date:* Sch. 2 item 9 on 30.6.93: Government Gazette 24.6.93 p. 1596  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Catchment and Land Protection Act 1994, No. 52/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 97(Sch. 3 items 23.1, 23.2) on 15.12.94: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agriculture (Registered Occupations) Act 1994, No. 65/1994**

*Assent Date:* 18.10.94  
*Commencement Date:* Ss 1, 2 on 18.10.94: s. 2(1); rest of Act on 1.12.94: Government Gazette 24.11.94 p. 3095  
*Current State:* All of Act in operation

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**Livestock Disease Control Act 1994, No. 115/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* S. 142(Sch. 2 item 6) on 20.12.95: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Prevention of Cruelty to Animals (Amendment) Act 1995, No. 77/1995**

(as amended by No. 26/1998)

*Assent Date:* 14.11.95  
*Commencement Date:* Ss 1, 2 on 14.11.95: s. 2(1); s. 5(2) on 1.6.93: s. 2(2); rest of Act on 14.5.96: s. 2(4)  
*Current State:* All of Act in operation

**Miscellaneous Acts (Omnibus Amendments) Act 1996, No. 22/1996**

*Assent Date:* 2.7.96  
*Commencement Date:* Pt 8 (s. 18) on 9.4.96: s. 2(2); s. 12 on 13.6.96: s. 2(3); s. 24 on 1.10.96: s. 2(4); rest of Act on 2.7.96: s. 2(1)  
*Current State:* All of Act in operation

**Veterinary Practice Act 1997, No. 58/1997**

*Assent Date:* 28.10.97  
*Commencement Date:* S. 96(Sch. item 7) on 17.3.98: Government Gazette 12.3.98 p. 520  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Agriculture Acts (Amendment) Act 1998, No. 26/1998**

*Assent Date:* 19.5.98  
*Commencement Date:* S. 8 on 1.4.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998**

*Assent Date:* 2.6.98  
*Commencement Date:* S. 311(Sch. 1 item 75) on 1.7.98: Government Gazette 18.6.98 p. 1512  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

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**Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998,  
No. 76/1998**

*Assent Date:* 10.11.98  
*Commencement Date:* S. 27 on 15.12.98: s. 2(5)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
1986**

**Prevention of Cruelty to Animals (Amendment) Act 2000, No. 11/2000**

*Assent Date:* 18.4.00  
*Commencement Date:* 19.4.00: s. 2  
*Current State:* All of Act in operation

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 101) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
1986**

**Animals Legislation (Responsible Ownership) Act 2001, No. 83/2001**

*Assent Date:* 11.12.01  
*Commencement Date:* Ss 3–8 on 12.12.01: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
1986**

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 54) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
1986**

**Fisheries (Amendment) Act 2003, No. 56/2003**

*Assent Date:* 16.6.03  
*Commencement Date:* S. 11(Sch. item 17) on 17.6.03: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
1986**

**Animals Legislation (Animal Welfare) Act 2003, No. 103/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* Ss 34–36, 42, 43, 44(2)(3) on 10.12.03: s. 2(1); s. 32  
on 22.1.04: Government Gazette 22.1.04 p. 137; ss 31,  
33, 37–41, 44(1) on 24.6.04: Government Gazette  
24.6.04 p. 1742  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals Act  
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**Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004**

*Assent Date:* 19.10.04  
*Commencement Date:* Ss 48, 50–53 on 20.10.04: s. 2(1); s. 49 on 29.9.05: Government Gazette 29.9.05 p. 2171  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 160) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Amendment) Act 2005, No. 50/2005**

*Assent Date:* 24.8.05  
*Commencement Date:* Ss 3–9 on 25.8.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Further Amendment) Act 2005, No. 76/2005**

*Assent Date:* 2.11.05  
*Commencement Date:* Ss 26–28, 30–37 on 3.11.05: s. 2(1); s. 29 on 1.12.05: Government Gazette 17.11.05 p. 2610  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* S. 94(Sch. item 39) on 1.7.06: Government Gazette 29.6.06 p. 1315  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Animals Legislation Amendment (Animal Care) Act 2007, No. 65/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* Ss 77(1)(4), 78, 79(2)(3), 80–86, 88, 89, 91, 92(1)-(3)(5), 93–108, Sch. 2 on 12.12.07: s. 2(1); s. 77(2) on 20.3.08: Special Gazette (No. 71) 18.3.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### 3. Explanatory Details

<sup>1</sup> S. 6(1)(a): The amendment proposed by Schedule 2 item 9 of the **Meat Industry Act 1993**, No. 40/1993 is not included in this publication due to an incorrect reference to the title of this Act.

<sup>2</sup> S. 6(1)(g): The amendment proposed by section 5(6) of the **Prevention of Cruelty to Animals (Amendment) Act 1995**, No. 77/1995 was repealed on 31 March 1998 by section 7 of the **Agriculture Acts (Amendment) Act 1998**, No. 26/1998.

<sup>3</sup> S. 6(1)(h) (*repealed*): See note 2.